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A
FINANCIAL HISTORY
OF
TENNESSEE
Since 1870

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Dedicated

**TO THE CAUSE OF GOOD GOVERNMENT
AND DEMOCRACY
IN TENNESSEE**

Preface

Between 1870 and the present time, Tennessee has evolved from a relatively obscure agricultural state into an increasingly urban, industrialized state upon which, due to the Tennessee Valley Authority experiment and the atomic energy developments at Oak Ridge, the eyes of all America and of the entire world have turned. Great advances have been made in development and conservation of our rich natural resources and in the promotion of a balanced industrial growth. Wealth and income have expanded, living standards have risen, health has been improved, and educational progress of great magnitude has been made.

Along with these developments have come greater burdens upon State and local units of government, increasing need for revenues, more complicated governmental organization, and the requirement of more scientific techniques and more efficient personnel. Government in Tennessee is now too important to be inefficient.

The purpose of this history is to trace the growth of our taxes, expenditures, debt and fiscal administration from 1870 to the middle of the 20th century, in order to give a clearer understanding of the present by showing how we have become what we are.

Tennessee's history since 1870 has unfolded within the confines of a Constitution which has not been officially altered or amended in any way for more than three-quarters of a century. No other state has ever undergone such sweeping historical changes under a similar constitutional restriction. That so much progress has nevertheless been made is a tribute to the labor and patriotism of a long line of Tennesseans serving their people both as private citizens and in public life.

This is not a book which will be widely read, and probably it has little commercial value. The author and its sponsors present it as a public service to educators, historians, lawyers, judges, elected and appointed officials, business men and to all other Tennesseans who may find it of interest or use.

While responsibility for the data, conclusions and opinions contained in this book are fully assumed by me alone, it is a pleasure to acknowledge here the generous assistance given to me by many persons in the preparation and publication of this history.

To Governor Gordon Browning go my sincere thanks for his interest and support. I wish also to thank ex-Governor J. N. McCord for giving me access to State offices and reports during my period of research, and to express my gratitude to Speaker of the Senate Walter M. Haynes, Commissioner of Finance and Taxation Clarence Evans, and Secretary of State James H. Cummings for their kind assistance and co-operation.

In the original preparation of this history as a doctor's thesis, valued aid came from numerous persons, for which I herewith express my earnest gratitude. I desire especially to acknowledge my indebtedness to the late Vice-chancellor Alexander Guerry and to Professor E. M. Kayden of the University of the South; to Dr. E. T. Miller of the University of Texas; and to the State Librarian and Assistant State Librarian, Mrs. John Trotwood Moore and Miss Wilhelmina Caruthers.

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JAMES E. THOROGOOD

Sewanee, Tennessee

June, 1949

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Chapter I

THE HISTORICAL BACKGROUND

In 1790, following the cession of the "Western Lands" to the Federal government by the State of North Carolina, Congress passed an act organizing the Territory of the United States of America South of the River Ohio. This area was soon known generally as the Tennessee Territory. According to the Federal Census of 1890, it had a population of 35,691.

On June 8th, 1790, William Blount was appointed Governor of the new Territory, taking the oath of office on September 20th. From 1790 until 1796, it was governed under the terms of the famous Northwest Ordinance. Counties and judicial districts were organized, and, on February 24, 1794, the first Territorial representatives met at Knoxville to nominate members of the upper house, the Council. The first full session of both houses convened on August 24th of the same year.

A census authorized by the Territorial Legislature in June, 1795, showed a population of 66,000 free and 10,000 slave inhabitants. Thereupon Governor Blount called for a constitutional convention which met in Knoxville on January 11, 1796, and, after twenty-seven days, completed the First Constitution of the State of Tennessee.

After some delay in Congress a bill was passed to admit Tennessee into the Union as the sixteenth state, and this was signed by President Washington on June 1, 1796.

The instrument adopted in 1796 was the first of three Constitutions under which the State has functioned, and it was in force until 1835. It was modeled closely upon the constitution which North Carolina, the "Mother State," had created at her Revolutionary Convention in 1776.¹

Three aspects of the First Constitution may be noted here, since they were to be the chief reasons for the creation of the Second Constitution in 1834. First, the "separation of powers" doctrine was not strongly embodied in the document, and the legislative branch was dominant by virtue of its rights to appoint members of the judiciary, name such "cabinet officers" as the Secretary of State and State Treasurer, and make and try impeachments. In addition, there was no provision for a veto by the Governor.

¹Cf. Combs and Cole, *Tennessee, A Political Study*; J. W. Caldwell, *Studies in the Constitutional History of Tennessee*; Wallace McClure, *State Constitution-Making With Especial Reference to Tennessee*.

In the second place, there was virtually no autonomy for the local units of government under the First Constitution, since the Legislature not only created counties and municipalities, and could modify them at will, but it also appointed the Justices of the Peace for each county, and these officials not only performed important judicial functions, but acted as the legislative body for the county, and appointed the sheriff, coroner, trustee, constables, ranger and registrar.

In the third place, the First Constitution contained a tax clause which, while not unique in this respect, was significant enough to be termed "the most remarkable of the Constitution."² It reads as follows:

All lands liable to taxation in the State, held by deed, grant or entry, shall be taxed equal and uniform, in such manner that no one hundred acres shall be taxed higher than another, except town lots which shall not be taxed higher than two hundred acres of land each. No freeman shall be taxed higher than one hundred acres, and no slave higher than two hundred acres on each poll.³

In a word, this was not an *ad valorem* but a *specific* tax, and it completely ignored improvements, locations and value. Such a tax greatly benefited the owners of the more valuable lands, and also held down the rate of taxation on urban property, but it burdened the owner of poorer lands unfairly and in addition taxed him regressively through the poll tax. Even in the Territorial Legislature of 1794 a division had appeared between the wealthier land-owners and the poorer groups concerning the relative use of land taxes and poll taxes. A careful reading of the above provision indicates a greater advantage to speculative land-owners than to any other group. Like most of the other political leaders of early America, Tennessee's "Founding Fathers" were deeply interested in land speculation. At the time of the drafting of the First Constitution, the most populous section of the State was the eastern half, which contained mountainous and hilly terrain not generally suitable for plantations. The flat, fertile lands of south-central and western Tennessee were still largely unsettled by whites. It is clear, then, that Article First, Section 27, worked to the advantage of the land speculator and the owner of the more valuable urban property and non-slave farms, but to the disadvantage of the slave-holders, landless freemen (of which there were then few) and poor settlers.

²McClure, *op. cit.*, p. 43.

³Article First, Section 27.

Only one other provision relative to taxation appeared in the First Constitution. It read: "No article manufactured of the produce of this State, shall be taxed otherwise than to pay inspection fees."⁴ The Constitutions of 1835 and 1870 were to include this provision without alteration.

The population and wealth of the State increased rapidly in the decades that followed the adoption of the First Constitution. Slaves increased both in absolute numbers and in relation to the white population as settlers poured into the western and southern sections of the State and began cultivating soils well-suited to cotton-growing. The cotton gin, which, it has so often been said, "fastened slavery upon the South," was invented three years before Tennessee entered the Union, and this combined with the trend of settlement to increase the planting of cotton, enhance land values, and encourage more permanent tenure.

The increasing inequities resulted in much hostility toward the system of specific taxation which the historian James Phelan described as "monstrous" and "hardly more than an entail law in disguise."⁵ To modern students of taxation, it was indeed, as Judge John Catron of the State Superior Court declared, "an appalling absurdity truly, that an hundred acres of land, worth 50c the acre, should pay one dollar taxes, and that another hundred acres, worth \$50 the acre should pay the same amount of tax."⁶ It was an equal absurdity that the poorest freeman in the State should pay the same poll tax as the wealthiest. No doubt the low rates explain why this system was endured even as long as it was. In 1833, two years before the Second Constitution was adopted, the State was taxing land at 18 $\frac{3}{4}$ c per one hundred acres, slaves at 25c per poll, whites at 18 $\frac{3}{4}$ c per poll, and town lots at 37 $\frac{1}{2}$ c each.⁷

By 1834, objections to the system of taxation embedded in the First Constitution, together with other criticisms of an equally compelling nature, resulted in a constitutional convention being called and a new constitution being written. This was submitted to the voters and ratified, by a large majority, on March 5-6, 1835.

The Second Constitution remained in force until 1870. Two amendments were added to it. One, approved in 1853, concerned the organization of the judiciary, and the other, approved in 1865, abolished slavery. Inasmuch as the Constitution of 1870 was, in its essence, little changed from the

⁴Article First, Section 27.

⁵*History of Tennessee, the Making of a State*, p. 253.

⁶Quoted in Phillip Hamer: *Tennessee—A History*, Vol. I, p. 318.

⁷*Journal, Tennessee House of Representatives*, 1833, p. 356.

Constitution of 1835, it is basically true that the State has been under the same constituent instrument for more than a hundred and ten years, for the Constitution of 1870 has not been amended or altered in any fashion during the seventy-six years of its existence. These facts make the Constitution of 1835 deserving of considerable notice in a paper of this kind.

The "uniformity" tax clause (or, better-called, the "specific tax" clause) of the First Constitution was now replaced by what was, in effect, a "general *ad valorem* tax clause." "Privileges" had been taxed under the First Constitution, although there was no specific authorization for such taxes, but they were specifically mentioned in the Second Constitution. The taxing clauses of the Second Constitution read:

"All lands liable to taxation, held by deed, grant or entry, town lots, bank stock, slaves between the ages of twelve and fifty years, and other such property as the legislature may from time to time deem expedient, shall be taxable. All property shall be taxed according to its value; that value shall be ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the State. No one species of property from which a tax may be collected, shall be taxed higher than any other species of property of equal value. But the Legislature shall have power to tax merchants, peddlers, and privileges, in such manner as they may from time to time direct. A tax on white polls shall be laid in such manner, and of such amount, as may be prescribed by law."⁸

Another section required counties and incorporated places to tax property "according to its value."⁹

The other important article relative to taxation, *Section 30*, prohibited the taxation of any "article manufactured of the produce of the State" except "to pay inspection fees" and this provision was identical with a section of the first Constitution.

An "internal improvement clause," which was to have an important influence upon the State's future financial history read as follows:¹⁰

A well-regulated system of internal improvements is calculated to develop the resources of the State, and to promote the happiness and prosperity of her citizens; therefore, it ought to be encouraged by the General Assembly.

Andrew Jackson was in the second term of his presidency at the time the Second Constitution was written, and his

⁸Article 2nd, Section 28.

⁹Article 2nd, Section 29.

¹⁰Article 11, Section 9.

strenuous and effective opposition to the financing of "internal improvements" by Federal funds made it clear that State aid must be used instead. In passing the "internal improvement clause" the thoughts of the constitution-makers were principally of turnpikes, canals and state banks, but even at that early date the idea of state aid to railroads was in the minds of some. That the admonition of the "internal improvement clause" was fully obeyed, and often with more liberality than wisdom, is confirmed by the history of the following half-century.

The Constitution of 1834, as noted in the previously-quoted Section, provided that a tax on "white polls" should be laid in such manner, and in such amount, as should be prescribed by law; and the poll tax on slaves, which had been in effect under the 1796 Constitution, was replaced by *ad valorem* taxation property in slaves. The poll tax on free negroes, which had been the same as that on whites under the First Constitution, was eliminated in the Second Constitution, and along with this went an exemption from military duty in time of peace for such "free men of color." No payment of poll taxes was required for voting, however, and the property qualifications which had been found in the First Constitution both for voting and holding state offices, were entirely swept away by the Second Constitution.

Control over county affairs by the State was greatly reduced, and the voters were given the right to select Justices of the Peace and most of the other county officials.¹¹

Separation of powers among legislative, executive and judicial branches was explicitly recognized in the Second Constitution as follows: "The powers of the government shall be divided into three distinct departments; the Legislative, Executive and Judicial."¹² Actually, however, the mechanisms for achieving such separation were hardly more developed than under the First Constitution. There was still no provision for a veto by the Governor, and the same control by the Legislature over the appointment of Treasurer, Attorney-General and Secretary of State was continued, as well as the right to select "all officials not otherwise directed or provided for by this Constitution."¹³

However, the first amendment to the Second Constitution, approved in 1853 took the power of appointing judges of

¹¹Article 7, Section 1.

¹²Article 2nd, Section 1st. Second 2 is also pertinent.

¹³Article 7, Section 4.

the State's Inferior and Superior courts, and Attorney-General, out of the hands of the Legislature, making such offices elective.

The Second Constitution, reflecting the increasing concern of the slave-holding sections of the State over its "peculiar institution," included a section designed to perpetuate slavery. It read: "The General Assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owners."¹⁴

Except for the amendment passed in 1853, previously mentioned, the only other amendment to any of Tennessee's three Constitutions over a period of one hundred and fifty years, was that of 1865, which was in the form of a schedule of nine sections. The first section abrogated the article on slavery, just mentioned. The second and third sections abrogated the State's Ordinance of Secession and its League with the Confederacy. Section 4 suspended the operation of the Statute of Limitations during the period of the Civil War. Section 5 nullified all acts of "the usurped State Government" after its Secession Ordinance of May 6, 1861.

Section 6 abrogated the obligation of the State to pay the bonds and notes issued by the State Bank of Tennessee after May 6, 1861, and forbade subsequent Legislature from authorizing payment of these debts. Sections 7, 8 and 9 dealt with civil and military offices during the period of transition from the Military Government to a Civil Government, ratification of the Schedule of Amendments, and qualifications of voters.

In a word, Tennessee's First Constitution, in effect from 1796 to 1835, was not amended at all. The Second Constitution, in effect from 1835 to 1870, was amended twice in relatively minor ways; and the Third Constitution, in effect from 1870 to the present time (1946), has not been amended. This is unique in the history of American state constitutions. Combs and Cole comment upon the rigidity of the Third Constitution as follows:

Every one of the other forty-seven constitutions, regardless of age, has been amended since the adoption of Tennessee's fundamental law in 1870. In fact, with the exception of Tennessee, there is not a single state whose organic law has not been amended since 1912. Tennessee, therefore, can boast of being the proud possessor of a Constitution which has remained uncontaminated by the dread disease of reform for more than half a century.¹⁵

¹⁴Article 2nd, Section 31.

¹⁵Combs and Cole, *op cit.* p. 28.

Another portion of the Constitution of 1834 was later to play an important role in the financial development of the State. This was the Educational Provision, Article xi, Section 8, which reads as follows: (in part)

It shall be the duty of the General Assembly, in all future periods, of this Government, to cherish literature and science. And the fund called the "Common School fund," and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated by the General Assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a *perpetual fund*, the principal of which shall never be diminished by legislative appropriation; and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools, throughout the State, and for the equal benefit of all the people thereof; and no law shall be made authorizing said fund, or any part thereof, to be diverted to any other use than the support and encouragement of common schools. And it shall be the duty of the General Assembly to appoint a Board of Commissioners, for such term of time as they may think proper, who shall have the general superintendence of said fund, and who shall make a report of the condition of the same from time to time under such rules, regulations, and restrictions as may be provided by law; Provided, That if at any time hereafter a division of the public lands of the United States, or of the money arising from the sale of such lands, shall be made among the individual States, the part of such lands or money coming to this State shall be devoted to the purposes of education and internal improvement, and shall never be applied to any other purpose.

The lofty and well-intentioned phrases of this Section were to achieve little in realization. The "School fund" was pitifully small. In 1826 it was stated by a Legislative Committee to be \$98,000. Additions were made to the fund in 1827, but its exact amount in 1834, when the Second Constitution was written, was a matter of guesswork. Prior to 1834, as afterwards, the quantitative nature of the fund's assets was stressed more than its qualitative aspect. The Board of Commissioners required by the Constitution was appointed in 1836, and it was directed that the fund be centralized under the control of the Superintendent of Public Instruction. Nevertheless, "in the hands of the superintendent the fund was mismanaged and much of it was lost. As a Legislative Committee reported, the common school fund had been 'time after time plundered by a thousand hands.'"¹⁶

School lands realized much less for educational use in Tennessee than in many other states of the South and Southwest because the United States made no provision for schools in the Southeast (Tennessee) Territory, as was

¹⁶Hamer, *op. cit.* p. 354.

done later for other territories. In this respect, Tennessee made the "mistake" of coming into the Union too soon.

In 1806, an attempt was made to remedy the deficiency by a compact with the Federal Government, whereby the State was to receive title to large tracts of Indian lands within its borders which were in process of being extinguished by new treaties. It was proposed that, where possible, one square mile of every thirty-six should be reserved for the use of schools. However, squatters had been so active that few valuable lands were left for the use of education.

Some additions were made to the school fund in 1827, but in 1830 it was distributed to the counties for separate use. The plan was for County Commissioners to use the fund for making loans, the interest on which was to be applied to educational purposes. Under this system, much of the fund was dissipated and lost.

Until 1834, one must agree with the historian Phelan that: "The history of the common schools is, in the main, the history of the public lands in Tennessee, and the history of the public lands in this state is the history of confusion."¹⁷

After the Second Constitution was adopted in 1835, with its commendable educational Section, the "perpetual fund" became as completely enmeshed with the problem of "internal improvements" as it had previously been bound up with the history of the public lands. In 1838, when an act was passed creating a State Bank, the entire educational fund was invested in the capital stock. In return, the bank was required to set aside \$100,000 of its dividends annually for common schools, and during the rest of the ante-bellum period this income was the mainstay of public education—if such a slender sum may be so dubbed.

The educational fund was stated in the Code of 1858 to be \$1,500,000, but the Bank of Tennessee, disputing this, claimed the fund was only \$1,120,000.¹⁸

Despite the fact that some tax revenues were added to the income from the educational fund in 1854, the amount was pitifully inadequate even when judged by the standards of the time. In 1860, Tennessee had the third highest rate of illiteracy in the Union.¹⁹

¹⁷*Ibid*, p. 233.

¹⁸Cited in Hamer, *op. cit.* pp. 356-7.

¹⁹*Loc. cit.*

During and immediately following the Civil War, interest on the school fund was not paid, and the condition of the Bank in which the fund was invested was weakened by the large issues of notes (the so-called Torbatt Issue, named for the head of the Bank, G. C. Torbatt). In 1866, the Bank was put in the process of liquidation, with the "perpetual school fund" being given a prior lien on the proceeds up to the predetermined amount of the fund, \$1,500,000.²⁰

The passage of the ten per cent tax on state bank notes by Congress in 1865 (effective July 1, 1866), as a means of eliminating the circulation of state banks, terminated this function of the Bank of Tennessee, although its notes continued to plague the State Government for many years because of the necessity of accepting them for public dues or redeeming them upon presentation.

Before ending this survey of pertinent constitutional and financial history prior to 1870, one must note the use of the State's credit to aid various privately-owned "internal improvements," since the financial, and much of the political history from the close of the Civil War until 1883 revolved around the indebtedness created for this purpose. In fact, this period is often termed the "Debt Period."²¹

As previously stated, there was nothing in the first Constitution to prevent the State from engaging in commercial enterprises or using its credit to aid private companies. As early as 1809, the much-transmuted school fund was freely used in the banking business, and in 1820, a State-owned bank of issue was chartered with a capital of \$1,000,000.²² In 1832, the State invested \$500,000 in a private institution, the Union Bank, and in 1833 began investing in another, the Planters Bank, and within four years had invested a total of \$1,119,387.54.²³

Nevertheless, the framers of the Second Constitution in 1834 felt that a positive statement was desirable, and therefore included the aforementioned *Article II, Section Nine*, specifically encouraging such expenditures on "internal improvements." Under the Second Constitution, the State made what was then considered heavy commitments of this kind by loaning its credit in aid of railroads and turnpikes,

²⁰Moore and Foster, *Tennessee, the Volunteer State*, Chapter xxi, a monographic interpolation on "Tennessee in the Banking Business," by Judge Robert L. Morris.

²¹*Annals of the Academy of Political and Social Science*, January, 1931, "Problems of Taxation in Tennessee," by C. P. White.

²²Moore and Foster, *op. cit.* p. 455.

²³*Idem.*

as well as investing a total of \$5,000,000 in the Bank of Tennessee in 1838 (previously mentioned with reference to the educational fund).

The first regular state-aid bill for railroads and turnpike companies was passed in 1836, followed by a more generous bill in 1838.²⁴ Under these, the State agreed to subscribe a given proportion of the stock of the company either upon completion of a specified mileage or upon the subscription of a certain proportion of the capital by private investors. The Act of 1836 required two-thirds of the stock to be privately subscribed, with the State subscribing to the other one-third. The following year the State increased its proportion to one-half. Bonds of the State were used to make the purchase. Thus the State received a contingent claim on dividends while incurring a fixed obligation to pay interest.

Many of the early lines soon fell into bankruptcy, and the State's investment of \$2,063,506.66 had, by 1838, produced very little improvement in the transportation system. This was partly due to poor planning for the projects and partly to the Panic of 1837 which was followed by prolonged depression. In addition, "there had been mismanagement and fraud and waste of the State's money."²⁵

It is not surprising, then, that the General Assembly, meeting in 1839-40, passed as one of its first laws an act which repealed all authorization for subscription of stock in internal improvement companies by the State.²⁶ At a time when the railroads were in their infancy—indeed, in a pre-natal period, in Tennessee—this drying up of public aid meant that adequate capital could not be raised. As a result, on January 1, 1850, "not a mile of railroad was in actual operation in the State, unless, perhaps, there were purely local operations on the few miles of road that the State of Georgia was building between the Georgia-Tennessee line and Chattanooga."²⁷

Even between the years 1840-50, the State did not completely withdraw its credit, however. In 1848, another plan for aiding railroads was passed, and under this, the State guaranteed \$500,000 of the bonds of the Nashville and Chattanooga Railroad.²⁸

In 1850, State bonds were issued for the purchase of rails and equipment of the East Tennessee and Georgia Railroad

²⁴Hamer, *op. cit.*, Vol. I, p. 413 ff.

²⁵Figures and quotation in this paragraph from Hamer, *op. cit.*, p. 416.

²⁶*Acts of Tennessee, 1839-40, Chapter 1.*

²⁷Hamer, *op. cit.*, Vol. II, p. 421.

²⁸*Acts of Tennessee, 1847-8, CLXIX.*

to the amount of \$350,000, and this was completed by 1852. Thus only \$850,000 of liabilities were incurred during a twelve-year period when railroads were being built rapidly in many other states, often with public assistance. Georgia had completed 111 miles, and Alabama 631 miles by 1850.²⁹

The decade of the 1850's saw opposition to greater aid overcome, however, and in 1852 the State resumed the practice of giving its credit to aid railroad construction.³⁰

Unlike the Acts of 1836 and 1838, the 1852 law provided that the railroads receiving State bonds should pay the amount of the interest to the State, together with sinking fund payments which were to begin two years after completion of lines, and the State was to have a first lien on the assets of the railroad.³¹

Under this system of state aid (with some modifications) a fairly complete railroad system came into existence, and the plan was well-administered prior to the Civil War. Up to May 6, 1861, the total amount of bonds issued for railroad aid was \$14,841,000.00, and the total State debt at the end of 1861 was \$17,594,806.00. The latter figure did not include \$2,207,000.00 of railroad bonds for which the State was secondarily liable by endorsement.³² Incidentally, the State bonds issued to the railroads, as well as county and city bonds issued for the same purpose, were tax exempt.

The use of the State's credit for railroad aid would probably have been fiscally sound as a whole had not the devastation of the Civil War ensued, to be followed in Tennessee by a short but bitter "Reconstruction Period," during which the State government recklessly and corruptly granted additional aids.

Professor Hamer comments on this period as follows:

In the course of the decade preceding the Civil War, more than 1200 miles of railroads had been built in Tennessee. In the building of these railroads the State of Tennessee had invested some \$15,000,000.00, and cities, towns, counties, and individuals had invested even more millions. Work was under way on other important railroads that would have added still more to the wealth of the people of Tennessee, but in 1861 the Civil War began. Tennessee became a major battlefield of that War. The railroads that had been built at such labor and expense were destroyed. What might have been a profitable investment became a burden of heavy debt.³³

²⁹Hamer, *op. cit.*, Vol II, p. 421.

³⁰Acts of 1851-2, CLI.

³¹Details of these acts are well-summarized in W. R. Scott: *Repudiation of State Debts*, Ch. V.

³²Figures taken from *Comptroller's Report of 1861*.

³³*Op. cit.*, Vol. I, Pages 453-454.

Between April, 1866 and December, 1868, \$13,943,000 in additional bonds were loaned to the railroads. Subsequent legislative investigators revealed much fraud in the issuance and use of this credit, and "by far the greater proportion was thrown into the bottomless pit of ineffectual aid to projects in a hopelessly bankrupt state."³⁴ As a result, some lines received "additional State aid amounting to several times the cost of the original construction."³⁵

As a result of the waste and misappropriation of State funds by officials, railroad executives and receivers, the railroads were apparently little better off than they were before the aid was extended. In November, 1868, "the total arrears of interest on the part of the twenty-two railroads that had received State bonds was \$2,271,409.52. The next year it had grown to \$2,306,477.47, despite the fact that five of the more solvent companies had entirely paid up."³⁶

It has been necessary to deal in some detail with State aid to railroads because of the influence of the large debt upon the Constitution of 1870. In this respect, one cannot completely agree with the statement of the historian Caldwell that the Third Constitution was merely "a political expedient for the purpose of restoring the Citizenship of the majority of the white voters of the State, and of securing to them the control of affairs . . . , and, perhaps, also to give them the opportunity to show that they accepted the results of the war."³⁷

Tennessee was one of the border states in the War and for her it was indeed a bitter civil conflict. East Tennessee, largely a mountainous region unsuitable for plantations, was aggressively loyal to the Union, while Middle and West Tennessee, dominated by the slave-holding planters, and with a large negro population, supported the Confederacy.³⁸

The popular vote on the Act of Separation from the Union, taken on June 8, 1861, was 108,399 for, and 47,233 against, and these figures roughly reflect the general division of the State as whole between the Union and Confederacy. On June 24, 1861, Governor Isham G. Harris formally dissolved the ties between Tennessee and the United States. Warfare ensued between the opposing sections of the State, and this was only mitigated by the early

³⁴"The Radicals and the Railroads" by Dr. Stanley Folmsbee, in Hamer, *op. cit.*, II, pp. 664-5.

³⁵Moore and Foster, *op. cit.*, Ch. xxv.

³⁶Folmsbee, *op. cit.*, p. 666.

³⁷*Constitutional History*, p. 296.

³⁸In 1860, the U. S. Census showed 275,784 Negroes in the State, nearly 25% of the population. The ratio of slaves to Whites in East Tennessee was 1 to 12; in Middle Tennessee, it was 1 to 3; and in West Tennessee it was 3 to 5. Figures quoted by Hamer, *op. cit.*, I, pp. 455-6.

occupation and fairly complete pacification of the State by Federal arms. The capital was occupied by Union troops on February 10, 1862, the State Government previously fleeing, first to Memphis and later to Mississippi. On March 3, 1862, President Lincoln appointed Andrew Johnson, an East Tennessean, as Military Governor of the State.

Despite vigorous and repeated efforts of the Confederates to regain the State, frequent raids by Southern cavalry and guerillas, and numerous clashes between the dominant minority and the dissident majority, the State was held for the Union, and in September, 1863, Lincoln wrote Johnson that the time had come for reconstituting a Civil Government. This was attempted in 1864, but was not successfully accomplished until April, 1865, when W. G. Brownlow, a militant East Tennessee Unionist, as Governor, and a pro-Union Legislature elected by a restricted electorate, assembled in the Capitol at Nashville.

Previously, in January, 1865, an extra-legal constitutional convention had drawn up the previously-mentioned schedule of amendments to the State Constitution, which nullified the secession ordinances, abolished slavery, and provided that the next convening civil legislature should have the right to determine the qualifications for voters.³⁹ Section 6 of the Schedule abrogated the "secession debt" of the State in the following language:

All laws, ordinances, and resolutions, of the usurped State government, passed on or after the 6th day of May, 1861, providing for the issuance of State bonds, also all the notes of the Bank of Tennessee, or any of its branches, issued on or after the 6th day of May, 1861, and all debts created or contracted in the name of the State by said authority, are unconstitutional, null and void; and no legislature shall hereafter have power to pass any act authorizing the payment of said bonds or debts, or providing for the redemption of said notes.

This section was not included in the Constitution of 1870, and the Bank of Tennessee notes mentioned above were subsequently honored. The Fourteenth Amendment of the Federal Constitution contained the well-known provision in Section 4, requiring the Southern States to repudiate all debts incurred as members of the Confederacy, but after prolonged litigation, this was interpreted not to include the notes of the Bank, even those issued during the Civil War. (See Chapter IV).

The Schedule of Amendments to the State Constitution was approved by a large majority of the small number of voters who were franchised, the vote being 26,865 to 27.

³⁹Hamer, *op. cit.* II, page 595.

In the quarrel that developed in Washington between President Johnson, who favored Lincoln's more lenient policy of Reconstruction, and the Radical Republican Congress, Governor Brownlow took the side of the Radicals, and in July, 1865 was able to secure ratification by Tennessee of the Fourteenth Amendment to the Federal Constitution. The State's Congressmen were thereupon seated, and the State was declared to be restored to her normal place in the Union. Thus she alone of the Southern states escaped the terms of the severe Reconstruction measures passed by Congress in 1867 and involving military rule and occupation by Federal troops.

Despite the excesses of the Brownlow Administration, the State was therefore able to return to normality sooner than most of the other Southern States, and her economic and financial institutions quickly recovered, although continued civil strife, and waste and corruption in the State government, were serious handicaps. Even during the Brownlow Administration, there was considerable opposition in the Legislature to the reckless use of public credit to aid the railroads under acts passed in 1866 and 1867. It should be recalled that the State government, while not fully representative of all of the state, was by no means a "scalawag" or "carpet-bagger" government in the sense that these were found in such states as South Carolina, Virginia and Texas. However, the dominating personality of Brownlow, supported by the Congressional Radicals who held the threat of military rule over the state, prevented effective opposition to the executive branch, especially when supported, as it was by a "State Army."

In 1869, an act was passed to permit railroads to retire their debt to the State by paying in any of the bonds originally issued to them. These were accepted at par by the State, although the market price stood at a discount of approximately twenty-five per cent. In 1870, it was provided that any bonds of the State bearing six per cent interest might be so used by the railroads. The result of

this mistaken, not to say unwise legislation, made it to the interest of the railroads to depress the price of the bonds,—throw obstacles in the way of any provision for payment, and in every way that was possible, depreciate the credit of the State. The railroads were virtually the enemies of State credit and honor—necessarily made so through self-interest, for the lower the price of State bonds, the more easily the railroad companies could discharge their debt to the State.⁴⁰

⁴⁰*Report of the Comptroller of the Treasury, 1873, page 14.*

The effect of these provisions upon the State's debt will be noted in Chapter III.

By 1869, a Conservative Republican Governor, DeWitt C. Senter, was elected with the aid of ex-Confederate elements who possessed the vote. Senter favored restoration of universal manhood suffrage, and among the acts of the Legislature of 1869 was the submission to all the male citizens of the question of calling a constitutional convention. This act was approved on December 18, 1869 by a vote of 50,520 to 10,020, and on January 20, 1870, delegates met in Nashville. The convention was presided over by ex-Confederate General John C. Brown, and most of the delegates represented the ex-Confederate element.

Thus the element which had been dominant before 1861 had not only returned to power within five years of the end of the war, but also dominated a convention which was to frame a new constituent law. Undoubtedly the Constitution which was produced served the 'political expedient' which was said to be its main purpose. However, probably no one would be more astonished, than its authors, were they alive today, at its unaltered survival of eighty years of unprecedented social and economic change.

Chapter II

FINANCIAL ASPECTS OF THE CONSTITUTION

It has been noted in the previous chapter that Tennessee has been under an unamended constitution since 1870. Despite the asserted belief of its own authors that sweeping revisions or a new document would soon be necessary, and despite the fact that the voters have had eight opportunities to approve the calling of a constitutional convention, the organic law survives in its original purity.

The inflexibility of the Third Constitution has exerted an important influence upon the subsequent financial history of the State. As has often been the case when static legal instruments are confronted by dynamic social and economic forces, change is not entirely checkmated but is, like a dammed-up river, merely diverted into devious channels. Circumvention of intolerable provisions of the Constitution has been stimulated, and evasion has proven in some cases to be an effective even if undesirable substitute for formal amendment. Certain powers which the framers of the Constitution apparently considered of no great significance have been expanded, elaborated and exploited. Just as the Federal Constitution has been modified by usage, disusage and broad constructions, so it has been with Tennessee's Third Constitution.

The Constitution of 1870, like its prototype of 1834, provided a compensation of \$4.00 per day for legislators, and the sum of \$4.00 for every twenty-five miles of travel to and from the capital city. It impresses the modern student as an act of considerable parsimony that the legislature was kept from too lavish an enjoyment of this stipend by the added provision that: "No members shall be paid for more than 75 days of a regular session, or for more than 20 days of an extra or called session, or for any day when absent from his seat in the Legislature unless physically unable to attend."¹ The austerity of the provision is not dispelled by the following sentence providing that: "The Senators, when sitting as a Court of Impeachment, shall each receive four dollars per day of actual attendance."²

Compensation for the Governor and other administrative officers, as well as for judicial officers, was not fixed by the Constitution, but the precedent set by the provisions for

¹Article II, Section 23.

²*Ibid.*

legislative pay has tended to make adequate salaries for the other officers of government difficult to enact into law.

The provisions of the Third Constitution concerning taxation are as follows:

ARTICLE II, Section 28: All property, real, personal or mixed shall be taxed, but the legislature may except such as may be held by the State, by counties, cities or towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, scientific, literary or educational, and shall except \$1,000.00 worth of personal property in the hands of each taxpayer, and the direct product of the soil in the hands of the producer and his immediate vendee. All property shall be taxed according to its value, that value to be ascertained in such manner as the Legislature shall direct, so that taxes shall be equal and uniform throughout the State. No one species of property from which a tax may be collected, shall be taxed higher than any other species of property, of the same value, but the Legislature shall have the power to tax merchants, peddlers and privileges, in such manner as they may from time to time direct. The portion of the merchants capital used in the purchase of merchandise sold by him to non-residents and sent beyond the State, shall not be taxed at a rate higher than the *ad valorem* tax on property. The Legislature shall have power to levy a tax upon incomes derived from stocks and bonds that are not taxed *ad valorem*.

All male citizens of this State over the age of twenty-one years, except such persons as may be exempted by law on account of age or other infirmity shall be liable to a poll tax of not less than 50c nor more than \$1.00 per annum. Nor shall any county or corporation levy a poll tax exceeding the amount levied by the State.

Section 29: The General Assembly shall have power to authorize the several counties and incorporated towns in this State, to impose taxes for county and corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value.

Section 30: No article manufactured of the produce of this State, shall be taxed otherwise than to pay inspection fees.

The authorization of a poll tax was linked with the right to vote, as was to be expected of a constitutional convention composed so largely of recently franchised ex-confederates, as follows:

... there shall be no qualification attached to the suffrage, except that each voter shall give to the judges of election where he offers to vote, satisfactory evidence that he has paid the poll taxes assessed against him for such preceding period as the Legislature shall prescribe, and at such time as may be prescribed by law; without which his vote cannot be received. And all male citizens of the State shall be subject to the payment of poll taxes ... within such ages as may be prescribed by law.³

³Article IV, Section 1.

The preceding quotations from the Third Constitution compose all of the tax clauses. It may be noted by way of summary that: (1) they provided for a system of "general property taxation"; (2) that "privileges" might be taxed, with the Legislature having broad discretion in defining a "privilege" and determining the manner of taxing it; (3) that the State might impose a poll tax which could be made a prerequisite for voting, and that counties and cities might impose an additional poll tax respectively, not to exceed that imposed by the State; (4) that property held by public bodies, and property held by private organizations when used for quasi-public purposes such as education, scientific research, charity, etc, might be exempted from the general property tax; (5) that personal property should receive an exemption from taxation on the initial \$1,000.00 of value; (6) that the direct product of the soil, in the hands of the producer or his vendee should be exempted from paying the property tax; (7) that articles manufactured from the produce of the State should be exempt from all except inspection fees; (8) that the income from stocks and bonds might be taxed *in lieu* of the *ad valorem* tax; (9) that discriminatory taxes might not be levied against merchants shipping merchandise out of the State; (10) that the Legislature should have power to prescribe the tax systems of the counties and incorporated towns, subject to the general limitations on taxation which were included in the Constitution.

In addition to the above provisions it is clear by specific provision or implication that the Constitution: (1) Prohibited a "classified property tax system"; (2) failed to authorize general income taxation as such, and in fact appeared to prohibit it unless such taxes should be imposed as "privileges" by the Legislature and upheld by the Courts; (3) gave mandatory exemptions on personalty and certain classes of property ("the direct product of the soil"); (4) allowed the Legislature some discretion in ascertaining the value of property for taxation; (5) gave a tax advantage to domestic manufacturers using domestic raw material as compared to manufactures using out-of-state material. An "agrarian bias" is clearly evident in the Third Constitution.

On the subject of using the State's credit to aid railroads, turnpikes and other "internal improvements," the Third Constitution made important changes. Here was to be seen a strong reaction against the abuses of the Brownlow Administration which was in power from 1865 to 1869.

There was also evidence of a general *laissez-faire* spirit, which was more prevalent at this time than during the framing of the First and Second Constitutions. The pertinent clauses on this subject are as follows:⁴

⁴ARTICLE II.

Section 29: But the credit of no County, City or Town shall be given or loaned to or in aid of any person, company, association or corporation, except upon an election to be first held by the qualified voters of such county, city or town, and the assent of three-fourths of the votes cast at such elections.

Section 31: The credit of this State shall not be hereafter loaned or given to or in aid of any person, association, company, corporation or municipality; nor shall the State become the owner in whole or in part of any bank or a stockholder with others in any association, company, corporation or municipality.

Section 33: No bonds of the State shall be issued to any Rail Road company which at the time of its application for the same shall be in default in paying the interest upon State bonds previously loaned to it or that shall hereafter and before such application sell or absolutely dispose of any State bonds loaned to it for less than par.

The effects of the provisions were: (1) The State might not thereafter own banks in whole or in part, nor invest in the capital stock of private banks or other private companies, as had been frequently done before; (2) the political subdivisions were not absolutely forbidden to use their credit in aid of private enterprises, but the three-fourths vote required for this action was a powerful limitation; (3) railroads which previously had been loaned State bonds and were in default on the payments which were supposed to provide the State with funds to pay the interest and retire the principal of such bonds, could not longer expect the State to continue to refund such bonds at maturity, but might instead expect seizure and sale by the State.

The Comptroller's *Report* for 1870 listed the debt of defaulting railroads at \$20,621,687.46, of which approximately half was described as "of doubtful value" so far as their saleable value being equal to the debt was concerned.⁵

The provisions of the Constitution of 1834 concerning the "perpetual school fund" have been quoted in Chapter I. The Constitution of 1870 included the substance of its prototype concerning the fund, but added the following:

The State taxes, derived hereafter from polls shall be appropriated to educational purposes, in such manner as the General Assembly shall from time to time direct by law. No school established or aided under this section shall allow white and negro children to be received as scholars together in the same school.⁶

⁵Page 8.

⁶Article XI, Section 12.

Thus, the poll tax was correlated both with the franchise and with public school education, in such a way that the "common schools" would gain most by the maximum use of the poll tax, which in turn would substantially reduce participation of the negro citizens as well as the poor whites in the political processes of the State. In effect, this gave something of a choice between more voting and less schooling, or more schooling and less voting.

ARTICLE XI, Section 8 was directed against special incorporation laws and against special exemptions and privileges for such corporations. The Constitution of 1870 prohibited special incorporation, and substituted general incorporation procedure. It further provided that the general incorporation laws might be altered or repealed, but that no changes "shall interfere with or divest rights that have become vested."⁷ Many of the railroads previously incorporated under the Second Constitution had contained tax exemption clauses for long periods, and four years after the Constitution of 1870 was adopted, the Comptroller of the Treasury was to write:

I am not aware that a railroad company has ever paid a cent of taxes to the State . . . The law gives me no control over the assessment of railroad companies.⁸

There are several additional provisions of a financial nature in the Third Constitution, but they are relatively unimportant.

One other feature of this Constitution should be noted at this point, however, because of its general influence upon the power of the Governor to manage the finances and direct the affairs of the State. Tennessee's Governor has always been in a relatively weak constitutional position, and the actions of Governor Brownlow from 1865 to 1869, including the use of troops against the disfranchised majority, led to further curtailment of executive powers at the constitutional convention of 1870, which the ex-Confederates dominated. The Governor was not given control over the appointment of the "cabinet." Rather, the State Treasurer, the Comptroller of the Treasury, and the Secretary of State were required to be nominated and elected by the Legislature. The Attorney-General was made appointive by the Judges of the Supreme Court, and the election of other officers was to be made in such manner as the Legislature should direct.

⁷Article XI, Section 8.

⁸Report, 1874, page 16.

The Governor might require written reports from the officers of the executive department, but beyond this his "subordinates" were independent of him and were, in several instances, members of a different political party.

The Governor was given a veto power by the Third Constitution, but the Legislature might pass laws over his veto by a simple majority of the whole number elected to the House and Senate.

The Third Constitution also divested the Governor of the power, which the office had previously possessed, to call out the militia without the approval of the legislature. Further, the right to declare martial law was completely withheld by the Constitution.⁹

Thus it is clear that the Governor was not specifically granted adequate powers by the Constitution to control the officials or fully integrate the work of the executive department, though additional powers might be vested in him by Legislative Act. The failure to integrate power with responsibility was to lead to many conflicts and make sound organization more difficult to achieve.

One final provision of the Constitution of 1870 should be considered, since the unamended longevity of this organic law has had great influence upon the subsequent fiscal history of the State. This concerns the method of effecting changes in the Constitution. Briefly, the process requires, for amendments, that a legislative proposal be passed by a majority of all the members of each legislative branch, that the same proposal be approved at the next legislative session by a two-thirds vote of all the members, and that this proposal should then be approved by a majority of all the citizens voting at the next election.

A constitutional convention may be called with less difficulty and in a shorter time. The question of calling a convention may be submitted to the people at any time by a joint resolution of the Legislature. If approved by a majority of those voting at the next election, delegates are then chosen by the voters, and the convention is called. No subsequent ratification by the voters is required to approve the changes or new constitution drawn up by such a convention.

While the amending process is slow and difficult, the method of changing the Constitution by a convention is

⁹ARTICLE I, Section 25. "That martial law, in the sense of the unrestricted power of military officers, or others, to dispose of the persons, liberties or property of the citizen, is inconsistent with the principles of free government, and is not confided to any department of the government of this State."

no more exacting than that of numerous other states. The failure of Tennesseans to modify their hoary Third Constitution up to the middle of the twentieth century can only be explained by the lethargy of the voters, the opposition arising from groups with vested interests in the constitutional *status quo*, and "a mystical conception of the Constitution which views that document as a hallowed work."¹⁰

¹⁰Combs and Cole, *op cit.*, page 46.

Chapter III

A PERIOD OF FALTERING GOVERNMENT, 1870-1883

The Revenue System in 1870.

The Constitution of 1870 was more of a political *coup* than a thorough-going revision of constituent law. Some of its provisions required legislation, however, and this was supplied by the Second Extra Session which met shortly after the ratification of the Third Constitution by the voters.

Exemptions The Constitution of 1835 had permitted more extensive exemptions than were allowed by the Constitution of 1870. Under the former, objects of taxation were specified by law, and objects not specified were by implication exempted. The Constitution of 1870, on the other hand, required that all property, real, personal or mixed, be uniformly taxed except such objects as the Constitution specifically exempted, or definitely permitted the Legislature to exempt by statute. The Legislature has generally taken full advantage of its authority to grant exemptions.

The provision in the 1870 Constitution that personalty be exempted to the amount of \$1,000.00 "in the hands of each taxpayer," required new statutes, since previous revenue laws had granted personal exemptions which might, in some cases, exceed \$2,000.00.

The discretion of the State to tax, or to exempt, the bonds of itself and its political subdivisions, was continued under the Third Constitution. Previously such bonds had at times been fully taxed and at other time fully exempted. In 1870,¹ they were again made fully taxable under the uniform *ad valorem* rate. Prior to 1870, however, the interest and dividends on stocks and bonds had been considered as taxable property even when the principal value of the securities had been exempted. Bonds of the United States were of course not taxable. The stocks and bonds of private corporations were fully taxable as personalty unless they were part of the \$1,000.00 exemption allowed each taxpayer, exempted under provisions of charters granted prior to 1870, or were made subject to the income tax which might be imposed upon stocks and bonds which were not taxed *ad valorem*. The last-named *in lieu* tax was not imposed by the revenue law of 1870, however.

Subjects and Rates of Taxation.

Polls. The Constitution of 1870 required that all male citizens over twenty-one years of age, except those whom

¹Ch. 81, *Public Acts of 1870*.

the Legislature might exempt because of age or infirmity, should be subject to the poll tax. The state might impose a rate of from fifty cents to one dollar, and counties and municipalities were permitted to impose similar taxes not to exceed the prevailing state rate. The Legislature in 1870² set the state rate at the minimum, and made it applicable to "all male inhabitants between twenty-one and fifty years of age, except persons deaf, dumb, blind, incapable of work, or exempted by particular laws." Payment of such poll taxes as might be imposed was a prerequisite for voting. All receipts from poll taxes were to be kept in the county for school uses.

General Property (ad valorem) Tax. This was by far the most important source of revenue for the State in 1870, and this continued to be true for more than sixty years thereafter. A reference to the table in Chapter 14 (Page 272) will show that the general property tax produced nearly sixty per cent of total receipts for the decade 1870-80. The percentage rises to more than seventy for the decade if receipts from borrowing are eliminated from the total.

The tax rate, which had been 60c per \$100.00 of assessed taxable property in 1869, was cut to 20c per \$100.00 by the Legislature in 1870.³ This reduction reflected the hostility of the "ex-Confederates," who had just regained power, to the reckless loans to railroads made by the "Radical Republican" administration of Governor Brownlow during the previous five years. It was the intent of the new Legislature to make payments of interest on the debt impossible.

Privilege Taxes. The nature and meaning of the "privilege taxes" have been discussed in Chapter 2. This group included taxes generally classified as "occupational," "privilege" or "licenses" by most economists. In Tennessee, however, the term has had (and still has) a much wider significance. In a sense, all taxes levied by the State, except the poll, *ad valorem*, and *in lieu* income tax on stocks and bonds, have been legally designated as "privilege" taxes. It will be seen throughout this history how greatly the Constitutional authorization to tax "privileges" has been exploited.

In 1870, more than fifty activities or occupations were declared to be "privileges" requiring payment of a tax. The bases for measuring the tax varied widely. Supposedly

²Ch. 26, *Public Acts of 1870* (Second Extra Session).

³Ch. 81, *Public Acts of 1870*.

there was some correlation between the tax and ability to pay, but in most cases the correlation was very remote. Some of these taxes were imposed at flat rates, others were graduated according to the population of the county, town or taxing district in which the business was located, others were on the basis of productive capacity, and still others were on the basis of gross income. Some were a combination.

The following list of the more important and unique of these taxes, in effect in 1870-1, will indicate their general nature:

Merchants Tax. This was a mongrel tax, part *ad valorem* and part privilege-license. Receipts from this source were sometimes included among "privilege taxes" and sometimes among "property taxes." For several years prior to 1870, merchants had been taxed on their sales (or, to be more accurate, on "the invoice cost of the goods where purchased"⁴) at rates which ranged from one-half of one per cent to two per cent. By Chapter 45 of the *Acts of 1869*, however, the merchants sales tax was eliminated and the following method substituted⁵: (a) an *ad valorem* tax was levied upon the "capital invested," at the regular rate. "Capital invested" was defined as the cash value of the maximum amount of goods on hand during a twelve-months period, *plus* the value of "all capital employed during the same twelve-months period whereby no stock of goods is kept on hand." Before beginning business the merchant was required to make a bond with the County Court Clerk guaranteeing that the required information concerning "capital invested" would be given at the end of twelve months, and taxes paid. (b) In addition to the above *ad valorem* tax, the merchant was required to pay a license tax of \$10.00 on the first \$5,000.00 of capital, plus \$20.00 on each \$10,000.00 of additional capital. (c) Finally, another license tax equal the amount of the *ad valorem* tax—described above—was imposed. A Clerk's fee of \$1.00 was also required.

Peddlers were taxed from \$20.00 to \$100.00, depending upon whether they walked, used a vehicle drawn by one horse, or travelled more imposingly in a wagon drawn by two or more horses. Indigent and disabled persons (when so designated by legal methods), and peddlers selling religious and scientific books, were exempted.

⁴Chapter 74, *Public Acts of 1856*.

⁵Chapter 45, *Public Acts of 1869-1870*.

Liquor-dealers' License-Privilege Taxes. Generally these ranked next in importance to the Merchants Taxes as revenue-producers. An act passed in 1865,⁶ still in effect in 1870, required the dealer to secure a license from the County Court Clerk, declaring at that time the value of his original stock of liquors, and pay a license tax of \$50.00, plus 10% of the value of stocks in excess of \$250.00. He was also required to give bond for \$500.00 to guarantee that he would keep an orderly establishment and would file a statement at the end of twelve months with the Clerk, showing the amount of his purchases during that period, and paying a tax of 10% on such purchases. Chapter 79 of the *Public Acts of 1869-70* added to the above a tax on dealers "selling less or more than a quart to be drank at the place of sale," graduated from \$50.00 to \$100.00, depending upon the population of the town or city. Counties and municipalities might impose additional privilege taxes at rates not exceeding the state rates.

Making it clear that liquor peddlers were *personae non gratae*, all the above taxes might be imposed upon such persons, plus an additional \$100.00 tax "at every place where he may retail such liquors."⁷ Exemptions were granted druggists selling liquor under doctors' prescriptions or for church communions. The question as to whether or not a tax on sales of wines made from domestic grapes and offered for sale by the manufacturer-grower might violate *Article II, Section 30* of the Constitution of 1870, which provided that the Legislature should exempt "the direct product of the soil in the hands of the producer and his immediate vendee," led to a provision⁸ in 1870 that liquor dealers' taxes should not apply to persons making and selling liquors from the product of the soil when the seller was also the manufacturer. Later, however, the courts held that exemptions from *ad valorem* taxation of certain things did not necessarily exempt them from privilege taxation in the sale or use of such things.

The merchants *ad valorem-privilege* taxes, as well as the liquor dealers' license-privilege taxes and most other privilege taxes, were paid directly to the County Court Clerks, whether imposed as state, county or municipal taxes, and the clerk later paid to the State Comptroller, County Trustee, and municipal Treasurers, respectively. Some privilege taxes were payable directly to the State Comptroller, how-

⁶Chapter 8, *Public Acts of 1865*.

⁷Chapter 79, *Acts of 1869-1870*.

⁸Chapter 79, *Acts of 1870*, Second Extra Session.

ever, and in 1870 this group included express companies, insurance companies and tobacco warehouses.

Other privilege taxes included the following: Photographers, who paid from \$5.00 to \$35.00, depending upon the size of the town in which they were located; race tracks, taxed \$50.00 to \$100.00 on the basis of the length of the track; express wagons and carts, taxed \$5.00 to \$15.00 on the basis of number of horses used; physicians and dentists, taxed \$10.00 for a "privilege-license" if their income exceeded \$1,100.00 a year. Many of the privilege taxes were at a flat rate: For example, mills were taxed \$100.00 per year; tanners, \$25.00; brewers, \$100.00; pawnbrokers, \$250.00; insurance agents, \$25.00 to the state, and \$10.00 to each county in which they did business.

Instances of privilege taxes with rates based upon gross sales or gross income were: Auction merchants, one per cent of gross sales; domestic insurance companies, one-half of one per cent on gross premiums, plus a flat rate of \$750.00; realty transfers, one-tenth of one per cent on the sale value of town lots and farm lands. A tax of 6 mills per \$1.00 of net earnings was imposed in 1870 as a privilege tax on railroads, but this was changed the same year to 4 mills per \$1.00 of gross income. However, the railroads resisted payment of this tax, and nothing was collected under it for several years.

Other privileges combined a gross receipts and a flat rate tax: Real estate brokers, for example, were taxed \$50.00 plus one-half of one per cent of gross sales and rental income; steam ferries, \$100.00 plus one-half of one per cent of gross receipts; express companies, taxed \$1,000.00 plus one-half of one per cent of gross receipts.

Banks were taxed 60c per \$100.00 of capital (20c in 1871), but legally this was declared to be a tax on the stockholders' shares, collected at the source. Privilege tax rates on some things, such as playing cards, theatrical establishments, circuses and menageries, and pool tables, were so high that they clearly reflected moral disapproval on the part of the Legislature.

Evidencing a fine regard both for "man's best friend" and education, the Legislature of 1871 passed Chapter 96, authorizing the County Courts to impose a tax of "from 50c to \$2.00 on the privilege of keeping each and every dog, exceeding one for each family, of any sex or kind within the limits of said county." Receipts from the tax indicate that the canine world gained almost as much from it as the educational world. It was repealed in 1875.

The above-mentioned gross-premium tax on insurance companies was coupled with a provision that foreign companies doing insurance business in Tennessee should be required to pay the same tax that their state of domicile should impose upon Tennessee insurance companies, if this should be higher than the regular Tennessee rate. Insurance companies were also required to pay a fee of \$50.00 per year to the State Board of Insurance Commissioners.

An interesting though futile attempt to use the taxing power to force idle money in circulation, first passed in 1860,⁹ was still legally in effect in 1870. This law required an oath of each taxpayer declaring the amount of money

on special deposit, or in the hands of others, or in his immediate possession and not necessary or intended to be used by such person or persons for the payment of existing debts, for the current expenses of the year, or upon their families, or in his or their trade, calling, profession or business, and if upon such statement or other facts, in the case, the assessor shall be of the opinion that the money so accounted for is intended to be hoarded up or kept out of circulation, he shall list the entire amount of the same for taxation: *Provided, however, always,* That no sum of money under the amount of Five Hundred Dollars shall be taxable under the provisions of this Act.

Insomuch as the practice of not listing any money at all as personalty was almost universally followed by all taxpayers and apparently was tacitly approved by taxing authorities, it is obvious that this tax had no effect either upon revenues or the amount of money forced into circulation.

Financial Officers.

Comptroller of the Treasury. The principal financial officers of the government in 1870, with their chief duties, will be described in some detail in this chapter. Thereafter, they will be mentioned only to indicate changes.

The Comptroller of the Treasury was made a constitutional officer by the Constitution of 1870, but his duties were not defined, and, as a result, the nature of the office has been drastically changed from time to time. In 1870, however, and for nearly fifty years thereafter, the Comptroller was the chief financial and tax officer of the State. His duties embraced pre-audit, post-audit, supervision of tax administration, supervision of county tax officials, chief compiler of statistical data, and adviser to the Legislature on financial matters. The Comptroller was elected by a joint ballot of the two houses of the Legislature for a two year term.

⁹Chapter 68, Acts of 1860.

More specifically, the Comptroller was required to examine all claims against the state, and no money was paid into or out of the Treasury except under his warrant. He also kept books with every county official collecting or receiving state revenues, and was required to prepare and send to the County Court Clerks forms and instructions "sufficient to secure uniformity in assessing, charging, collecting and accounting for the public revenue."¹⁰ County officials made settlements with the Comptroller annually and upon leaving office, and were bonded by him. Delinquent revenue officers were certified by the Comptroller to the Attorney-General, and prosecuted under his supervision.

The official record of the state's debt was kept by the Comptroller, as well as the record of bond coupons and interest payments. In 1870, an annual report to the Legislature was required, containing records of receipts, disbursements, balances, assessments, debts, interest payments and similar data, and the Comptroller was invited to make comments and give recommendations. While the report of Comptroller Pennebaker in 1870 contained only thirty-four pages, that of Comptroller Thomason (by that time covering a biennium) contained four hundred and forty-five pages in 1923.

State Treasurer. The Treasurer was a constitutional officer under both the Second and Third Constitutions. He was elected by the General Assembly for a two-year term, but neither he nor the Comptroller required nomination by the Governor, and at times both have been of a different party from that of the Chief Executive. A bond of \$100,000.00 was required of the State Treasurer in 1870.

The Treasurer performed the usual functions of his office, receiving funds under the Comptroller's warrants-receivable, depositing the monies in banks selected by the Comptroller and himself within three days of receipt, keeping full accounts with depository banks, and paying out funds upon receipt of warrants-payable from the Comptroller (who was also required to countersign the Treasurer's checks at this time). Although the state's fiscal period ended annually on September 30th in the early 1870's, the Treasurer's report to the Legislature was on a biennial basis, and showed receipts, expenditures and current balances. Regular sessions of the Legislature were biennial.

¹⁰Chapter 12, *Public Acts of 1835*.

The books and records of the Treasurer's office were compared and reconciled quarterly with records in the Comptroller's office. Another function of the Treasurer will be noted later in the section on *Delinquent Tax Sales of Land*.

Governor. Throughout the first fifty-three of the seventy-six years covered by this history, the Governor had no legal control over revenue and financial officers, and possessed few powers and duties of an administrative nature, relative to finance and taxation. Only as head of a political party and nominal head of the state administration did he exercise some control and leadership in this field.

County Judge or Chairman. By 1870, in most of the counties, the voters elected a County Judge who served a term of eight years. A few counties still retained a County Chairman, elected by the county legislative body, the County Court.

The County Judge performed for the county most of the functions performed for the State by the Comptroller. He was the general agent for the county, controlled county property, drew warrants for paying in, or paying out county revenues, audited claims against the county, and made "settlements" with the other county officers. The Judge kept a record of all receipts and expenditures, as well as of debts payable and receivable. He was required at this time to balance his books semi-annually. He made recommendations and reports to the County Court and "acted generally to superintend the financial concerns of the County."¹¹

County Trustee. In 1870, the Trustee was merely the county treasurer, although within a few years he was to become the chief revenue-collecting officer in addition. He was elected by the voters for a two-year term. His functions were to keep all county money, receiving and paying out under Judge's warrants, to report delinquent and uncollectable accounts to the Judge, including judgements, and to act generally as county treasurer. He was required to settle his accounts with the Judge by the thirty-first of December each year, and before leaving office. His compensation was five per cent of all county revenues received, kept and disbursed, on amounts up to \$10,000.00, plus two per cent on amounts in excess of \$10,000.00. In the larger counties, this produced an income of considerable proportions.

County Court Clerk. In addition to numerous other duties, this official performed important revenue functions.

¹¹Chapter 38, Acts of 1857-1858.

He made out the assessment books from lists given him by the assessors, turning one over to the Tax Collector and keeping another in his own office. He issued licenses as previously noted, and received privilege taxes either directly or from other collecting officers (except those payable directly to the State Comptroller). At this time he was required to keep a "revenue docket" which contained a record of all sources of county revenue, including polls, property and privilege taxes, fines and forfeitures, and also a record of all appropriations and allowances made by the County Court, including claims for jury service.

The Clerk was compensated by an elaborate system of fees. The Code of 1858, still in effect in 1870, listed sixty-two general fees for the various clerks of the courts, plus eighty-four specifically applicable to the County Court Clerk. These fees ranged from 10c to \$50.00. His compensation included two and one-half per cent of the state and county revenues received and paid out by his office.

Tax Collector. An official whose office was to be abolished within a few years, the Tax Collector, was elected by the qualified voters of the county for a two-year period. Previous to 1860, he had been selected by the County Court. His duties were to collect the taxes according to the list supplied him by the County Court Clerk, and to sell property at delinquent-tax sales. His receipts were paid over monthly to the County Trustee after "passing his accounts before the Judge and County Court Clerk."¹²

Tax Assessors. One assessor was elected for each civil district of the county by the County Court at its January session, and was required to be a resident of the district. This meant that each county might have as many as twenty-four assessors.

Chapter 59 of the *Acts of 1870-1871* required that assessment be "at a just and uniform cash value, to be estimated on a credit of one and two years without interest, if sold, to a solvent, *bona-fide* purchaser. Then deduct 10% from one-half of such valuation, and the remainder shall be the cash value of such lands and town lots."¹³

The Tax Calendar.

Assessment. All taxes, real, personal, mixed, and polls, were assessed as of January 10th of each year. Notice of fifteen days was given by the assessor in each district, stating that at a place and time designated by the notice, he

¹²Chapter 56, *Acts of 1869-70*.

¹³Section 4.

would be present to take a declaration of taxable property, under oath, from the taxpayers. Chapter 70 of the *Acts of 1855-1856* required the assessor to "go up, examine, and inspect the land," and if necessary, summon witnesses and question them under oath. However, the same law permitted the assessor to ascertain the value "from the best information that is available, if the owner is a female, or is absent or ill." A second opportunity was afforded the taxpayers, shortly thereafter, to declare their property, if they had been unable to do so before. Outright refusal of an owner to give information might result in a double tax being imposed.

The chief officer of each bank was required to give the assessor a sworn statement stating the amount of capital invested. Each \$100.00 of capital was considered a share for taxing purposes, and such shares were held to be personal property, taxable to the stockholders at the regular *ad valorem* rate. This was the tax previously noted in this chapter as being collectable at the *situs* of the bank and not at the domicile of the stockholder. The tax applied whether or not the bank was incorporated, and the bank was held liable for payment of the tax from earnings. In fact, therefore, this was a bank tax, rather than a personalty tax. Stockholders in other corporations were not similarly taxed.

Equalization and Review. Complaints were heard (a) by the district assessor and two free-holders of the district, or (b) at a meeting of all the assessors of the county on the third day of February at the county court-house, which meeting was constituted a Board of Equalization and Review. This Board might revise individual assessments upward or downward, and it also had the power to make blanket revisions as between the districts, both decisions being upon a majority vote. Assessors might be fined from \$50.00 to \$200.00 for failing to attend this meeting.

Following the above-mentioned meeting, the revised lists of the district assessors were submitted to the County Court at its April Session (first Monday) for possible further review and equalization. No review and equalization at the state level was provided in 1870. As might be expected under this procedure, the ratio of assessed to real value varied sharply, both inter-district and inter-county.

Preparing the Tax Books. Following the review of the County Court, the final assessments of property and polls were given to the County Court Clerk, and from these lists were prepared the tax books, showing names of all persons owing taxes, with amounts due (including property assessed

to "unknown owners"). One of these books was turned over to the Tax Collector by the first Monday in May. The tax books also showed aggregate amounts of assessments and tax levies, and an abstract of these totals was compiled by the Clerk and sent to the Comptroller of the State by July 1st of each year. This aggregate showed the amount of state taxes due.

Collection. Upon receipt of the tax book from the Clerk, the Tax Collector immediately gave notice, at least twenty days in advance, that he would be in a certain place at a certain time in each district for the purpose of receiving taxes. Failure of taxpayers or their agents to pay on the designated date might result—again after twenty days notice—in seizure of the personalty (but not real estate) of the taxpayer and immediate use or sale of such personalty for taxes.

Delinquent Tax Sales of Land. If no personalty could be seized for delinquent taxes, the Collector secured an order from the Circuit Court authorizing him—after forty days notice—to sell the delinquent's lands for taxes and costs.

Such land sales were made at the courthouse door, and if bids were inadequate to pay taxes and costs, the property was "struck off" by the Collector to the state. In 1870, the State Treasurer, acting *ex-officio* as Superintendent of Education, held such land in trust for educational purposes. When lands were "struck off" to the state, fees of county officers involved in the sale were paid from State funds. After completing the tax sale, the Tax Collector returned a tax sale order to the County Court Clerk who kept the records and reported to the State Comptroller.

Redemption Rights and Tax Titles. The conditional deed given the purchaser at a land sale was *prima facie* evidence that the sale and title were valid. However, final conveyance of the land could not be made for twelve months, and during this period the former owner (or his heirs, assignees or agents) might regain full title by paying all taxes, costs and charges, plus fifty per cent interest on the amount due.¹⁴ If the land was not so redeemed at the end of twelve months, full title was then given the purchaser. However, the regular courts were still available to the former owner, and the courts were repeatedly instructed by the Legislatures to give a "liberal construction"—that is, one favorable to the delinquent—in such cases.¹⁵ The Legislature

¹⁴Chapter 16, Acts of 1859-1860.

¹⁵Chapter 92, Acts of 1883-1884.

of 1870 denounced oppressive penalties on delinquent taxpayers, and soon abolished the fifty per cent interest required of "redemptioners."

Lands which had been "struck off" to the State were given a two-year redemption period, and during this time the former owner might regain title by paying taxes, fees and charges, plus interest of six per cent on the amount due. If not redeemed within two years, full title passed to the State. Such lands might be rented, or subsequently sold, and receipts from this source were ear-marked for education.

Disposition of Revenues. Four banks acted as depositories in 1870. These were located in the four largest cities of the state, and to any of them the County Court Clerk and Tax Collector might send privilege-tax and property-tax collections, which they were required to remit, quarterly. Receipts for such deposits were sent by the depository bank to the depositor and also to the State Comptroller, who then instructed the State Treasurer to charge the bank with this amount. At the end of each month, depository banks forwarded state funds to Nashville, where they were deposited in the state depository bank in the capital city.

Collections of the County Court Clerk and Tax Collector for county use were paid to the County Trustee upon the warrant of the County Judge. Collecting officers were charged with the full amount of the tax levies, but were allowed credits for commissions, for taxes levied against proven insolvents, and for taxes officially delinquent. These payments to the Trustee were made on a monthly basis, and the collecting officers were required to "settle their accounts" with the County Judge on December 31st.

Taxes collected by the County Court Clerk and Tax Collector for municipalities were paid directly on a monthly basis to the municipal treasurers after examination and approval of the payment by the mayor or acting-mayor of the municipalities.

Developments from 1870 to 1884.

On paper, the revenue system of 1870-1871 seemed reasonably adequate. In fact, however, almost everything was wrong with it, and no great improvements appeared until after 1883, when the bitter and prolonged controversy over the public debt was finally settled.

Revenues were inadequate throughout the decade. No payments were made on the public debt out of revenues,

and taxes were sharply cut more than once by Legislatures which considered much of the state debt to have been fraudulently incurred, and were determined not to pay interest or principal. Property was drastically under-assessed, inequitably assessed, and not equalized. Tremendous amounts of personalty escaped assessment and taxation entirely. Corporations, including railroads and banks, were paying virtually nothing—usually claiming charter exemptions,—and attempts to tax them resulted in prolonged and costly litigation. In 1874, Comptroller Burch reported on this subject that:

There is a loud and just complaint that they do not bear their lawful proportion of taxation. I am not aware that a railroad company has ever paid a cent of taxes to the State. Some little has been received at long intervals from some of the banks. Some other of the banking institutions have never paid anything. Indeed, I know of no corporations, except insurance companies, that pay the taxes the law levies. Some of these do not.

The laws of our State are in profound confusion, and altogether diverse and uncertain, relative to the taxation of railroads and other corporations. In the charters of some corporations, there is total exemption for a long period of time. In others, there are specific taxes laid.¹⁶

Despite the law requiring quarterly payments, tax collectors in the counties, apparently without hindrance, followed the plan of holding state revenues for periods of one, two, or more years, before remitting to a depository bank, in order to draw more interest, which they retained. Governor Brown declared in 1873 that the system of collection "offered the Collector an opportunity for trade and speculation upon the public money, which many are not slow to embrace."¹⁷

The sale of property for taxes appears to have been hardly more than a mechanism for extracting fees from the State for the benefit of the office-holder. Comptroller Gaines noted in 1878 that some properties were resold to the State for ten years in succession.¹⁸ Governor Marks, in 1879, commented, on the subject of tax titles, that the tax laws were so involved and cumbersome that "the ingenuity of man is incompetent to the task of making a valid sale of real estate for taxes, and until the difficulties are removed all payment of taxes upon real estate must continue to be practically voluntary."¹⁹ He added that "under the expensive ceremony of condemnation and sale, it is probable that in no tax sale has a valid title been obtained."²⁰

¹⁶Comptroller's Report, 1874.

¹⁷Senate Journal, 1873, page 9.

¹⁸Report, 1878, page 17.

¹⁹Senate Journal, 1879, pp. 22-3.

²⁰Idem.

It is not surprising, then, that total delinquencies on State taxes in 1870 were \$1,283,115.81, while total receipts for the fiscal year ending October 1st were only \$1,924,428.09.²¹

Added to the administrative difficulties, the low tax rates, the defiance of the laws by local tax collectors, and the unwillingness or inability of State officials to act, there were numerous other defects and difficulties. Very little currency, even depreciated Civil War "greenbacks," were received for taxes. Instead, large amounts of the Bank of Tennessee notes were annually received, to be cancelled. It was also the accepted practice to issue warrants payable from the Comptroller's Office regardless of the condition of the State Treasury. Large amounts of these were almost constantly outstanding during this period, and in effect constituted a non-interest bearing loan to the state by the recipients, who were often forced to dispose of them at a heavy discount to banks, or to taxpayers who could thus pay their taxes at "bargain" rates. Comptroller Pennebaker commented that "warrants of the State are dull at 65c or 69c, and every official in the State has an unpaid bill against the State."²² Of \$26,000.00 received in 1871 from the Tax Collector of Shelby County (the state's largest county), \$25,500.00 consisted of notes of the Bank of Tennessee.

Prior to 1878, appropriations were made by the Legislature, not to specific funds, but only in a lump sum estimated to cover all appropriations. Estimates of receipts, due to constant changes in the taxes—especially in privilege taxes—were mere guesses, and payment of warrants from generally inadequate sums produced a mad scramble.

Aside from the development of the debt controversy, the chief fiscal events of this period were, first, the struggle to bring the railroads and other corporations into the revenue system, and, second, the modification of the system of assessment and collection at the county level.

Chapter 118 of the *Acts of 1873* instituted several alterations in the assessment laws. Individual sworn schedules from each taxpayer were now required, but the schedules merely listed property, leaving valuation to the Tax Assessors. Another section sought to secure more orderly valuations by requiring the assessor to go from one tract to adjoining tracts instead of assessing spottily at random. The act also changed the state's fiscal year from one ending on September 30, to one ending on December 19, and this transition was completed in 1874.

²¹*Comptroller's Report*, 1870.

²²*Report*, 1870, page 28.

In 1875, following several recommendations by Governors and Comptrollers, the office of Tax or Revenue Collector (one per county) was abolished, and his duties were transferred to the County Trustee in the collection of *ad valorem* taxes, and to the County Court Clerk in the collection of the privilege taxes. Collection costs had often run as high as 15% of receipts, and it was believed the new system would be more economical, by eliminating duplication of fees.

Governors and Comptrollers had also criticized the system of district assessors, suggesting instead either a small board of assessors, or a single assessor for each county. Acting upon the last-named suggestion, Chapter 91 of the *Acts of 1875* did abolish the district assessors and substituted a single assessor to be elected for a four-year term by the County Court. This act failed to provide an adequate review and equalization board however, and the old system of district assessors was restored in 1877. The old office of Tax Collector was not restored, however, and the County Trustee has continued from that time to the present to be both collector of property taxes, and county treasurer, while the County Court Clerk has continued to collect the privilege taxes (except those payable directly to the Comptroller).

Since the warrants issued by the Comptroller usually had a considerable "floating" period, and often passed through several hands before being presented for payment of dues, the Legislature of 1875 provided that warrants might be issued in denominations of \$5.00, \$20.00, \$50.00, and \$100.00 at the option of the recipient so that they might serve more adequately as a medium of exchange. Since the nation-wide "Panic of 1873" had been followed in Tennessee by a crop failure in 1874, money was very scarce, and the experiment in denominational warrants served a useful purpose. It was abandoned two years later. Following the crop failure of 1874, no attempts were made by the State to enforce tax collections for nearly nine months, and during this period most State expenditures were in the form of the denominational warrants or were taken from the proceeds of short-term loans.

Attempts to Tax Corporations. Mention has already been made of the lavish tax exemptions for long periods of time which had been given to the railroads and some other corporations in their original charters. The question arose after the adoption of the 1870 Constitution as to whether or not the new constituent law, requiring general taxation,

did not modify the charter exemptions. Also, some of the charters had granted exemptions from certain specified taxes but not from taxes in general. Attempts were now made to impose privilege taxes on railroads with *ad valorem* charter exemptions, but all such efforts were immediately contested in the courts. The tax of 4/10 of 1 per cent of gross earnings, mentioned previously, applied only to the railroads which did not possess charter exemptions.

Despite the State's attempts to reach the railroads for purposes of taxation by a variety of methods, however, the first tax payments were not received until 1875, and then only in very limited amounts.

When attempts were made to tax railroads without a charter exemption under *ad valorem* taxes, lawsuits were brought by the lines on the grounds that assessment procedure was inequitable. Insomuch as the equalization machinery was non-existent from 1873 to 1875, and wholly inadequate at other times, there were doubtless grounds for complaint.

In 1875, the legislature passed an act ²³ which, if accepted by a railroad, would permit it to pay a tax of one and one-half per cent of earnings *in lieu* of any *ad valorem* tax which the state might impose or attempt to impose. At the end of ten years, the railroad would then accept regular *ad valorem* taxation without litigation. This act also provided that *ad valorem* taxation would be imposed (or attempted) on all railroads not accepting the *in lieu* tax, on the basis of assessments to be made by a temporary three-man railroad assessment board. The *in lieu* tax was not upheld by the Supreme Court, however, and refunds of taxes made under this tax during 1875-1876 were made, if the amount received exceeded the railroad's tax liability under *ad valorem* taxes. The same law which ordered the tax refund in 1877 also made the three-man railroad assessment commission or board into a permanent Board of State Tax Assessors, and laid down in broad outline the "unit" rule of taxation which was subsequently to be employed by many of the states in the assessment and taxation of public utility properties, especially of railroad properties.

Since most of the charter exemptions of the railroads were shortly to expire, (or had already expired) payments from railroads slowly but steadily increased after 1875. Figures on these trends may be found in Chapter 14, TRENDS IN RECEIPTS.

²³Chapter 78.

Laws passed in 1881 required that more detailed information be filed by the railroad companies with the Board of Tax Assessors, and provided heavier penalties for failure to comply. Some of these laws were contested in court, but were upheld. A fuller account of the system of assessment and taxation of railroads will be found in the next chapter.

Tax Delinquency. No completely satisfactory method of collection of delinquent *ad valorem* taxes has existed between 1870 and the present time. Legislatures generally opposed stringent penalties, and tax titles were subject to attacks in the courts. Delinquencies on the part of revenue officers and county treasurers have also been frequent and continuing. Inadequate penalties for such delinquencies existed prior to 1875. The law of that year abolishing the Tax Collector and transferring most of his functions to the County Trustee, which also included provisions for more frequent payment of collections to the State Treasurer, and provided that no commissions should be allowed until full settlement had been made with the Comptroller, did much to reduce delinquencies on the part of local officials, and reduced deliberate withholding of state funds. In 1879²⁴ provisions were made for Tax Attorneys or State Revenue Agents to examine the books of county officials who collected state revenue and to proceed against delinquent officials. Such Agents were given Commissions based upon their collections, and within a year they had collected \$66,657.37. In 1880, only \$100.00 of the \$213,212.44 due the State from the County Trustees was unaccounted for, and only one report was late (of the 300 that were due).²⁵

There were two other fiscal developments in this period worth noting. One was the making of the first advance estimate of receipts and expenditures in detail by the Comptroller, in 1877. The other was the submission of revenue, expenditure and debt statistics to the Comptroller by county and city officials, in 1876. This was at first voluntary, but a few years later became mandatory.

Throughout the period under consideration (1870-1884), there was little increase in either the functions or the expenditures of the State government. In fact, as noted in Chapter XIII, the average annual expenditures during the decade 1870-1879, inclusive, were approximately \$1,500,000.00 per year, while for the decade 1880-1889, inclusive,

²⁴Chapter 218, Acts of 1879.

²⁵Figures in this paragraph from *Comptroller's Report*, 1880.

they were approximately \$1,250,000.00 per year or sixteen per cent lower.

Total assessments were lower in 1880, and also in 1884, than in 1870. An increase had appeared between 1870, when the total was \$252,882,874.00, and 1873, when the total reached \$308,089,738.00; but thereafter a sharp decline set in, and the total in 1880 was only \$211,768,438.00. It was 1889 before total assessments again exceeded three hundred millions.

There were several causes for the shrinkage of assessments during a period when population was increasing rapidly, more industry was developing, and urban life was showing a rapid growth. For one thing, the "Panic of 1873," followed by the crop failure in 1874, resulted in sharp reduction in values. Also, the general price-level for the county as a whole was downward from 1875 until the end of the century. Another factor was undoubtedly the appearance of more intangibles, such as stocks and bonds, which were easy to conceal—a development which apparently stimulated the habit of not declaring any personalty at all. Assessments of personalty shrank by approximately sixty-five per cent between 1873, when the amount was \$45,514,245.00, and 1880, when the total was \$16,133,338.00. Assessments of personalty did not reach the 1873 figure again until 1888. This development clearly represented a breakdown of the general property tax insofar as it applied to tangible and intangible personal property.

The attempt to bring the railroads and other corporations into the tax system was stimulated by the shrinkage of assessment values. Farmers felt that agriculture was too heavily burdened while commerce and industry were virtually untaxed.

With few exceptions, Governors and Comptrollers seemed to have no realization of the inherent defect of a general property tax. One exception was Comptroller Pennebaker, who noted in his 1873 *Report* that "intangible property cannot be reached except through the integrity of its owner in reporting it, and it is expecting too much of human nature to imagine that stocks, bonds and money will not always shrink wonderfully in value whenever the tax-assessor appears."²⁶ He also quoted David Wells, "the most eminent financier and statist in the United States," to the effect that "the propriety of an indiscriminate tax on personalty may

²⁶Page 46.

be doubted."²⁷ Mr. Pennebaker failed to develop the criticism further, however, or to make alternative proposals.

It seemed generally to be believed that more stringent penalties for underassessment and false swearing would solve all the state's revenue difficulties. This proved to be a false hope, even though the tax rates were so low that payment of the tax on intangibles was still theoretically possible—unlike the situation later, when payment of city, county and state property-taxes on low-interest bonds would have been confiscatory. The fact was in Tennessee, as elsewhere: The general property tax had become unsound in principle and unworkable in practice with the appearance of large amounts of bank deposits, stocks, bonds, notes, mortgages, and the like. Since the Tennessee Constitution was apparently more unamendable than that of other states, the process of "amendment by evasion" was more complete than in most states. The proportion of personalty assessments to real estate assessments never exceeded fifteen per cent during this period, and in some years the ratio fell to ten percent. This proportion was to remain remarkably stable throughout the entire period covered by this study.

It is clear, from the small amount of personalty assessed, that not only did intangibles escape, but tangible personal properties as well. If the sworn assessment schedules filed in predominantly agricultural counties were true, it would have to be concluded that agriculture was carried on virtually without poultry, cattle, horses, pigs, or farm implements. In point of fact, the *ad valorem* tax in Tennessee had become in essence a real estate tax even before the end of the 19th century.

²⁷*Idem.*

Chapter IV

THE END OF AN ERA: 1883-1897

The Revenue System in 1883-1884.

The distracting issue of the state debt was finally ended by the "Debt Settlement" of March 15, 1883 (See Chapter XV, TRENDS IN DEBT). Interest payments on the debt, made from revenues for the first time since the Civil War, were resumed, and more attention was given to improvement of fiscal affairs and permanent settlement of the controversies with railroads and other corporations over the matter of taxation.

Sources of revenue in the 1880's were not greatly different from sources of revenue in the 1870's (See Chapter XIV, TRENDS IN RECEIPTS). The *ad valorem* taxes supplied by far the bulk of the receipts, with the usual large variety of privilege taxes producing from one-fourth to one-half as much as the property taxes. Corporations continued to supply both a larger amount and larger proportion of the property taxes, paying from 20% to 25% of the total during the decade of the 1880's, compared to an average of 6.15% during the entire decade of the 1870's. Receipts from borrowing were much smaller during the 1880's than during the 1870's. The property tax rate, which had fluctuated between 10c and 60c during the 1870-1882 period, depending upon whether the "State Credit" wing (which favored payment of the state debt in full) or the "Low Tax" wing (which favored complete or partial repudiation of most of the debt) dominated the Legislature, was stabilized at 30c between 1883 and 1894, inclusive. In 1895 and 1896 the rate was reduced to 20c.¹

Exemptions. Exemptions did not differ materially in the 1880's from those of the 1870's. Bonds of the state and its political subdivision were exempt, as well as other public property used exclusively for public purposes. Religious, charitable, educational and scientific properties were exempt, unless used for commercial purposes. Real estate worth not more than \$10,000.00, owned by agricultural or mechanical associations, was now exempted. The usual public thoroughfares, cemeteries and monuments; the direct products of the soil in the hands of the producer or his immediate vendee (in conformity with Article II, Section 28 of the Constitution); and personal property to the value of \$1,000.00 for each taxpayer were all exempt. Chapter 105 of the *Public Acts* of 1883 prohibited a tax

¹Data in this paragraph from *Comptrollers' Reports*.

"on the capital of any bank or banking association, or any other joint stock company organized under the authority of this State or of the United States." It should be pointed out, however, that this did not refer to the taxation of bank shares as personalty of the stockholders, even though collected at the source; and real estate of such banks was also taxable under the property tax.

Although stocks of some corporations were still exempt from *ad valorem* taxation under charter immunity, and the bonds of the United States were not subject to the *ad valorem* tax, it was provided that income derived from such sources, as well as from corporation stock, should be considered property subject to the *ad valorem* rate. It would seem that such a tax on the interest received from a United States bond would be unconstitutional under the "separation of powers" doctrine—just as income from such U. S. bonds is not subject to state income taxes today. However, no record exists of a case being made on these grounds, presumably because intangible personalty (such as cash received as interest on U. S. bonds) was rarely if ever reported for taxation. Clearly one had nothing to gain from protesting taxes which were universally evaded.

Privilege Taxes. In 1870, some fifty activities had been designated as taxable privileges. By 1883, the number had increased to eighty-three. For the fiscal year ending September 30th, 1872, the most productive privilege taxes were the following, in the order named: Merchants and Grocers privilege; tipplers; and the tax on conveyances of land. For the fiscal year ending December 19, 1883, the order was: Tipplers; merchants and grocers; and conveyances of land.

Some of the changes which occurred in privilege taxation between 1870 and 1884 were as follows:

(a) By Chapter 106, *Acts of 1883*, a tax of 5 per cent was levied on incomes from stocks and bonds of railroads and other corporations which, by charter exemptions, had *ad valorem* exemption for such securities. This applied to only a few corporations.

(b) A privilege tax of from \$75.00 to \$500.00, graduated in seven brackets on the population of the town in which located, was now imposed upon banks and banking.

(c) Taxation of new industries, which had not existed in the 1870's, was reflected in the following; Electric light

companies, \$50.00 per annum; Ice Companies, \$50.00; Gas Companies, from \$50.00 to \$200.00 per year, graduated on the population basis; Telephone Companies \$.50 per telephone box; Sleeping Car Companies, \$50.00 per year.

(d) More of the privilege taxes in 1880 were based as to rates on the population of towns, cities, taxing districts or counties, than had been the case in 1870. There was also a noticeable tendency to increase the number of taxing brackets.

(e) While most of these taxes were still payable directly to the County Court Clerk, an increasing number were payable directly to the State Comptroller. Among these were the Express Company Tax of \$1,000.00 (if using less than 1,000 miles of line) to \$2,000.00 (if using more than 1,000 miles); life and fire insurance companies, now taxed $2\frac{1}{2}\%$ of gross premiums; and the tax on sleeping cars and telephones noted in (c) above.

(*Poll Tax.* The state poll tax rate was \$1.00 in 1883, as compared to 50c in 1870. Receipts were still kept in the counties for school use, and counties and cities might impose an additional poll tax of \$1.00 each. It appears that most of the counties, though not the cities, did impose the additional tax at this time. The poll tax in 1883-1884 granted the same exemptions for age and infirmity as in the 1870's, and the tax was applicable to alien residents as well as to citizens. Since the state's poll tax was kept in the counties, the receipts were not counted among state sources.

Assessment. Assessment procedure in the 1880's was basically the same as in the 1870's, though some changes may be noted. The stocks not only of banks but of insurance companies, joint stock companies and other corporations, were now assessed in the ward or district where located. This required out-of-state shareholders to pay on their shares as personalty.

Chapter 104, *Acts of 1883*, required all property to be assessed at "its real value in money, not at forced sale, according to the best judgement the assessor can form, from information, inspection or otherwise." In assessing mills, breweries, manufacturing associations and similar properties, the gross annual income and also the location, should be taken into consideration.

There was still a separate assessor for each civil district in 1883, elected by the County Court at its January

session, and the assessors were required to begin their work immediately after election. They were instructed to start assessment in one corner of their district and continue on contiguous property in a circular manner until the entire district had been actually inspected. The force of this instruction was vitiated, however, by the final statement that each assessor "should see each lot, tract, or parcel of land, or otherwise obtain satisfactory information in regard thereto."²

By the law of 1883, the taxpayer was required not only to list all property on a schedule supplied by the assessor (who received these forms from the Comptroller), but was also required to list the "cash values" of acres, town lots, buildings and personalty. This sworn statement was to be accepted as correct by the assessor unless he had grounds for doubt, in which case he was to make a thorough investigation. The assessor was given the right to make his own estimate if an owner refused to give, or was unable to give the required schedule.

The assessor was required to assess taxable polls in his district and also prepare a list of each person or company in his district subject to a privilege tax, giving this information to the County Court Clerk, who collected the privilege taxes. From the schedules supplied him by the assessors, the Clerk prepared a book containing full information as to ownership, location, and kinds of property. Eleven categories were included for the listing of cash, accounts and notes receivable, and other kinds of personalty. Payables were deductible from such personalty.

The assessor was now required to complete his work by the 4th day of March (instead of the 3rd of February, as in 1870).

Bank stock was assessed as personalty to stockholders, but was taxable at the *situs* of the bank, and was payable from bank earnings, as it had been in 1870. Merchants' capital, as during the 1870's, was assessed by the County Court Clerk instead of by the district assessor, and "capital" was determined as noted in Chapter III. A bond of \$1,000.00 was required, guaranteeing that the required information would be given, and the tax paid, at the end of twelve months. The *ad valorem* rate of 30c and an equal tax as a "privilege tax," were now imposed, but the third tax, \$20.00 per \$10,000.00 of capital, was no longer in effect.

²Chapter 105, Acts of 1883.

Wholesale liquor dealers, in 1883-1884, were required to pay the *ad valorem-privilege* taxes imposed on all merchants, plus \$150.00 per year. Retail dealers paid the Merchants' Taxes, plus an amount ranging from \$100.00 to \$200.00, depending upon the size of the city in which they did business. Both types of dealers were bonded.

Assessment of Railroads. The basic procedure for assessing the railroads was laid down between 1875 and 1882. Railroads were required to submit detailed schedules of information to the three-man Board of State Tax Assessors by means of the Comptroller's office. These were due by May 1st of every other year, and heavy fines were imposed for failure to submit. The Assessors were instructed to "have in view and look to the capital stock, the corporate property, the franchise of each company, as well as the gross receipts, the individual stock of each shareholder, and the schedules filed as herein directed."³ The railroad's bonded debt was not to be deducted from the total valuation.

From this information the Assessors were to ascertain the value of the "distributable property," which was defined to include road-bed, rolling stock, franchise, choses in action, and personalty having no actual *situs*. This was to include such properties both in and out of the state.

From the total value of "distributable property," the \$1,000.00 personalty exemption granted all taxpayers was deducted, and the remainder was divided by the total railroad mileage of the line to secure the "per mile value of distributable property." This was multiplied by the number of miles in the state to secure "distributable property assessment" for purposes of the state's tax, and by the number of miles in each county or municipality to secure the "distributable property assessment" for county or city tax purposes.

Depots, yards, grounds, and other personal and real property of railroads, having an actual *situs*, were classified as "localized property," and this was assessed annually by the local assessor, who gave such assessments to the County Court Clerk. The Clerk submitted the county "localized assessments" to the Railroad Tax Assessors (via the Comptroller's office) by May 1st.

The Railroad Tax Assessors then made a preliminary assessment. Time was then allowed for exceptions to be filed, and these were examined, and witnesses were called

³Chapter 78, *Acts of 1875*; Chapter 104, *Acts of 1881*.

(if the assessors so desired), following which a second (and possible revised) assessment was made. Final review and assessment were then performed by a "Board of Examiners," composed of the Governor, State Treasurer, and Secretary of State (which could revise by majority vote). The final assessment was then given to the Comptroller, who notified counties and cities as to how much "distributable property" they were allocated and might tax. The state tax on "distributable property" was payable directly to the Comptroller, but the State's tax on "localized property," as well as the county and city taxes on such property, were collected by regular county tax officers.

Assessment of Telegraph Properties. Telegraph properties, after 1877, were assessed in essentially the same manner as railroads, and the same types of schedules were submitted to the Board of State Tax Assessors (via the Comptroller's office). However, the distinction between "distributable" and "localized" properties was not made at this time,⁴ the taxable assessment allocations being assigned in full to political subdivisions by the State Board of Tax Assessors and the Comptroller.

Equalization. Except for the period 1875-1877, equalization procedure had been the same since 1870. The numerous district assessors, upon completion of their local assessments, met at the county courthouse (now on March 4th instead of February 3rd), compared and equalized their assessments (insofar as this was done at all), and heard complaints. In the absence of complaints, it appeared that little was done, and in fact it was impossible for a one-day meeting of perhaps as many as twenty-five assessors to accomplish very much. As previously, the County Court might hear additional complaints or appeals and make revisions.

The opportunities for "log-rolling" and favoritism under such a system are too obvious to need emphasis.

The Tax Books. Previously, the County Court Clerk had been required to prepare his tax books from the assessors' lists, and turn one of these over to the Tax Collector by May 1st. After 1875, however, the Clerk was given until the first Monday in October to prepare the books, turning over one of these to the County Trustee, who, after 1875, was entrusted with the collection of state, county, railroad, highway and school property taxes, and poll taxes. The

⁴Chapter 16, Acts of 1877.

County Court Clerk collected all privilege taxes not payable directly to the State Comptroller, including the Merchants and Liquor Dealers' *ad valorem*-privilege taxes. The County Trustee also collected certain taxes for municipalities. Property and poll taxes were due and payable on October 1st.

Upon receiving the tax book from the County Court Clerk, the County Trustee advertised that he would be present in the various districts of the county on certain dates for the purpose of receiving taxes.

Delinquency. The Trustee began tax collections on the first Monday in October. If taxes were not paid by the first Monday in February, the Trustee placed a list of delinquents in the hands of the Sheriff or a Constable, who was authorized to seize and sell personalty of such delinquents. Proceeds from such action were turned over to the Trustee by April 10th.

Land Sales. If delinquent taxes could not be secured from seizure and sale of personalty by June 1st, the Trustee gave thirty days notice of land that would be sold for taxes, beginning on July 1st, at the courthouse door. If no bids were received which would pay taxes, penalties and costs, the land was "struck off" to the State Treasurer (as previously).

Land purchased by private bidders was certified to the Circuit Court within thirty days, and a judgement was given vesting title in the purchaser. A writ of possession was granted upon request, and no technicality permitted invalidation of the sale. Only proof that taxes had not actually been due upon the property, or that the property had been redeemed, could invalidate the title; and the former owner was required to pay all taxes, fees and costs before he could bring suit on the basis of irregularities.

For a period of two years following the tax sale, the former owner might redeem the land by payment of taxes, fees, costs and penalties, plus six per cent interest. In 1870, the "period of grace" had been one year.

Lands which had been bid in by the State Treasurer might be redeemed upon application of the former owner, or his agent, to the County Court. The Court might approve redemption of all or part of the land, and could determine the valuation of such partial tracts. Upon payment of taxes, fees, etc, the owner might then regain part or all of the land. "For good reason," the Court might waive payment of interest and penalties on such lands,

and might also reduce the assessment—and hence the taxes due.

The taxpayer was, therefore, given more time to pay regular taxes, given more time and penalized less severely for delinquency, and generally was treated more gently in 1883-1884 than had been the case in 1870-1871.

Settlements. At the July session of the County Court, the Trustee reported delinquencies, errors and insolvencies, and received "credit" for such amounts of these as the Court approved. The Trustee, it should be mentioned, was charged originally with the full amount of the tax levy, and from this credits or deductions were allowed for the above items. Also deductible was the compensation of the Trustee, which was now six per cent on the first \$10,000.00 of receipts, four per cent on the next \$10,000.00, and two per cent on all above \$20,000.00. Monthly accounting of county funds was required of the Trustee by the County Judge; and a committee of the County Court was required to make a quarterly audit of this "settlement" between the Trustee and the County Judge. Final settlement with the Comptroller of the Treasury, for State funds, was required by the fourth Monday in September. The Trustee made monthly settlements with municipal authorities for revenues collected by the county for the incorporated towns and cities.

A Commissioner of Revenue for each county, to be selected by the County Court, was provided for in 1872.⁵ This official was authorized to collect back taxes from delinquent lists supplied by the State Comptroller at the end of the redemption period of two years. He was also given control over the use of unredeemed lands, and was to apply income from such property to the payment of state, county and city taxes (in that order). Such property might be sold by this Commissioner on a Credit of one-half to one year, without benefit of further redemption rights, and the proceeds applied to payment of back taxes.

Privilege Tax Collections. The County Court Clerk collected the privileges according to the lists supplied him by the Assessor. Quarterly reports were filed by the Clerk, listing privilege taxes and privilege taxpayers, and showing which revenues went to the state, county and municipalities. The Clerk paid over his collections within twenty days after filing his report, to Comptroller, County Trustee and municipal treasurers. A grand jury was required subsequently to examine and approve the Clerk's reports and

⁵Chapter 3, Acts of 1872, Second Extra Session.

payments, and it had the right to remove the Clerk and collect from bondsmen in case of irregularities.

Collection of delinquent taxes due to the State from county officials was undertaken by the Comptroller, who acted through special attorneys, in Circuit Court.

Fiscal Officers, 1883-1884. The State Comptroller was, as in 1870, still the chief revenue official of the state, and performed the same functions mentioned in the previous chapter. The State Treasurer also performed the same general duties as during the 1870's. State funds were deposited at this time in banks selected by the Treasurer and Comptroller, but not in amounts to exceed 25% of the depository bank's capital. Any bank might become eligible as a depository by giving a bond to the Treasurer (in 1870 there had been only four of these). Chapter 13 of the *Public Acts of 1883* required the Treasurer to keep a general ledger, with an account showing total funds, and others showing deposits with each bank and the amount of cash on hand. By the same law, the Treasurer was required to make quarterly reports to the Governor, showing receipts, disbursements, balances, and bank deposits. These reports, when reconciled with the Comptroller's accounts, were published in newspapers. Checks drawn by the Treasurer required the Comptroller's counter-signature.

Developments From 1884 to 1896.

Despite increases in the state's population (See Chapter XIV, TRENDS IN RECEIPTS), annual expenditures and receipts averaged less in the 1880's than in the 1870's. Part of this reduction may be attributed to a lower price-level. Few new activities were added by the state during this period. Total expenditures for the fiscal year ending October 1, 1871 were \$1,807,251.79, while for the fiscal year ending December 19, 1880, they were \$927,963.59.⁶ An increase in expenditures began after 1884, but it was not enough to raise the average for the 1880's to the average for the 1870's. A resumption of interest payments after the Debt Settlement of 1883, and increased expenditures for the retirement of wartime note issues of the Bank of Tennessee (declared a liability of the State in 1884, after prolonged legal battles (as noted in Chapter XV, TRENDS IN DEBT), explain much of the increase which began in 1885, while higher salaries for the judiciary and increased capital outlays on charitable and correctional institutions account for most of the rest.

⁶Figures taken from *Comptrollers' Reports*.

Receipts for the fiscal year ending December 19, 1884 were \$1,284,143.98, while for the fiscal year ending December 19, 1896, they were \$1,651,603.19, an increase of approximately thirty per cent. Since property-tax rates were the same for both of the above years, and no new taxes of importance were levied during the period, the increase was due to the growth of assessments, as the following table will show.

COMPARISON OF ASSESSMENTS, 1884 AND 1896¹

	1884	1896
Value, Land in Acres	\$145,862,841.00	\$165,762,960.00
Value, Town Lots	57,898,852.00	113,497,140.00
Value, Personalty	26,631,284.00	34,212,533.00
Railroads	31,547,582.00	40,446,368.00
Telegraph	250,091.00	765,067.00
Telephone	—	517,831.00
Total Assessments	\$262,190,650.00	\$355,201,899.00
Number of Acres Assessed	25,153,519	25,666,159
Average Assessed Value Per Acre ..	\$5.95	\$6.45

Although the valuation of "Land in Acres" may be seen from the above table to have increased nearly \$20,000,000.00 (or thirteen per cent), due both to increased acreage assessed and to a higher average valuation, and the value of "Personalty" increased nearly \$8,000,000.00 (or thirty per cent), and the value of railroads increased nearly \$9,000,000.00 (or thirty-five per cent), the chief element of absolute increase was to be found in "Town Lots," in which the increase of \$55,598,288.00 exceeded that of all other types of property combined. Percentage-wise, too, this increase was nearly one hundred per cent.

The increase in the valuations of "Town Lots" was due to the growth in population and wealth of the cities and towns during this period. Three of the four largest cities increased by more than one hundred per cent in population between 1880 and 1896, while the other, Nashville, increased by approximately eighty per cent.⁷ Increases in the assessed value of railroad property reflected the continued growth in railroad mileage, from 2,094 miles in 1884 to 3,044 miles in 1896.⁸ Telegraph and telephone assessments, even at the second date, were unimportant. Telephone properties were assessed separately from telegraph properties for the first time in 1886.

¹Figures taken Reports of the Comptroller of the Treasury.

⁷Computed from data in the Statistical Abstracts of the United States.

⁸Report of the Comptroller of the Treasury, 1885, 1897.

Chapter V

"FLOOD-TIDE OF PROSPERITY AND DEVELOPMENT" (1896-1907)

Between 1896 and 1907, annual revenues increased from \$1,651,603.19 to \$3,617,169.49 or more than 137%. The policy of annual payments into a sinking fund for bond retirement was begun in 1900, the first instance of debt retirement out of revenues in the state's history, and within ten years the debt was reduced by nearly 40%, to the lowest point since before the Civil War.

Total assessments for real estate and personalty (excluding public utilities assessed by the State Board of Assessors and Equalizers) were \$311,372,729.00 in 1896, and \$420,404,935.00 in 1907, an increase of nearly 35%. Railroad assessments increased during the same period from \$66,911,748.51 to \$70,972,122.67; telegraph assessments from \$751,040.35 to \$894,334.94; and telephone assessments from \$517,831.60 to \$2,951,426.32. Street railroads came under central assessment for the first time in 1905; in 1907 their assessment was \$11,841,739.06.¹

The fiscal health of this period was due to the growing wealth of the people of the state, which was reflected in larger revenues, as well as to some improvement in revenue administration. While there was growth in spending for education, welfare and other purposes, the greater public demand for more and more public services, which was to characterize the Twentieth Century, had not fully developed by 1907 and the increases in expenditures, though sizeable, were not large enough to consume all of the increased revenues.

Especially when compared to the previous decades since the Civil War, it was indeed, as Governor Frazier declared in 1905, ". . . the very flood-tide of the State's prosperity and development. The fiscal affairs of the State were never in a more healthful or satisfactory condition. The rate of taxation is the same as it has been since 1899, the State is free from floating debt, and is paying the interest on its bonded debt as it falls due without borrowing, and is rapidly taking up and cancelling its bonds."² This period, or the year 1900 in particular, might well be designated as the time when full recovery from the Civil War and Reconstruction was achieved in the sphere of state government.

¹Data taken from *Comptroller's Reports*.

²Message of January 3, 1905, *Senate Journal*, page 9.

Fiscal Organization and Administration, 1896-1897.

The Comptroller continued to be—as Governor Benton McMillin stated in 1901—"the collecting officer of the State as well as its Auditor and Accountant."³ He was assisted by Back Tax Collectors, one for each county, now appointed by him, and by State Revenue Agents. The functions of these officials will be noted later in this chapter. Other financial and revenue officers generally performed the same functions as during the period noted in the previous chapter.

Exemptions. The principal categories of exemptions were the same in 1896 as they had been in 1884. Stricter provisions existed to prevent escape from taxation of educational, charitable and similar institutions when their property was used for extraneous "commercial" purposes. "Idle buildings" owned by such institutions were no longer exempted, nor was property exempted which, though being used by such institutions, was privately owned. Under a tax of five per cent, the income from stocks and bonds not taxed *ad valorem* was now taxable.⁴ Exemptions on a small scale were now granted to indigent persons and to veterans of the Mexican War, for certain privilege taxes. Beginning in 1889, exemptions were granted to district or county agents of Tennessee agricultural associations buying and selling farm supplies on a non-profit basis, but the law specifically excluded any "wheel, alliance, grange, or union co-operative stores or anyone selling for profit."⁵

Rates of Taxation. The poll tax was the same, at the turn of the century, as it had been in 1884.⁶ The State rate was \$1.00 (the legal maximum), and the same exemptions as previously were granted for age and disability. A Supreme Court decision upheld the application of this tax to "residents," although the Constitution had referred to "citizens" as subjects of the tax.⁷

The *ad valorem* rate was reduced from 30c to 20c in 1895, but was again raised to 30c in 1897, but the previous rates did not include a 10c levy imposed by the State but retained in the county for school purposes, the proceeds of the school levy not even being listed as State revenues.

Privilege Taxation, 1896-1897. The Legislatures' practice at this time—as previously—had been virtually to re-write

³Senate Journal, APPENDIX, page 759.

⁴Acts of 1895, Chapter 120, Section 9.

⁵Public Acts of 1889, Chapter 182.

⁶Idem.

⁷Lea Tennessee Reports, 65, 67, 68.

the tax laws each session. The result was that tax collections were more difficult and taxes more uncertain. The recommendations of Governors and Comptrollers that such "tax tampering" should not be practiced continued to be ignored.

Under the Revenue Law of 1895,⁸ seventy-nine privileges were listed for collection by the County Court Clerk, and seventeen others required payment directly to the Comptroller or some other official at the capital. Among the latter were privilege taxes on railroads (in addition to or *in lieu* of *ad valorem* taxes), insurance companies, express companies, news companies, terminal companies, sleeping-car companies, telephone and telegraph companies, building and loan associations. A "franchise tax" was payable directly to the Secretary of State.

Collateral Inheritance Tax. The first collateral inheritance tax was passed in 1891,⁹ and approved for a tax of \$5.00 per \$100.00 on all property in the state, owned by residents or non-residents, passing by inheritance to persons not direct ascendants or descendants of the deceased. This act was repealed by Chapter 174 of the *Acts of 1893*, which specified that the rate of 5 per cent on the "clear value of such estate" should apply to all inheritances, without any initial exemption, except those of "lineal descendants born in lawful wedlock, adopted children under Tennessee laws, and father, mother, brother, sister" or other direct descendants or ascendants.

This collateral inheritance tax was assessed and collected by the County Court Clerk for the use of the state. Assessment was "as of" the date on which the property legally came into the possession of the new owner. A discount of five per cent was allowed if the tax was paid within three months of decease, while interest of 6 per cent was added if the tax remained unpaid after one year from decease. If unpaid within a year, the Clerk might secure a bill under equity rules to sell the property for taxes, but the Clerk was permitted to postpone this suit on good grounds. If adequate bids were not received at the tax sale, the Clerk bid in the property for the State, which paid the costs. A fee of 5 per cent of inheritance tax receipts was allowed the Clerk for making assessment and collecting the tax. Receipts were remitted quarterly by the Clerk to

⁸Extra Session, Chapter 4, Section 3.

⁹Public Acts of 1891, Extra Session, Chapter 25, Section 6. Collateral Inheritance Act upheld by State Supreme Court in *State vs. Alston*, 94 *Tennessee*, 674, (1895).

the State Comptroller, but monthly reports of inheritance tax collections for other taxes were required.

A change in the inheritance tax law made in 1895 caused inheritances from brothers or sisters to be taxable,¹⁰ but in 1899,¹¹ the provisions of the 1893 act were restored. No changes of importance were thereafter made until 1909. (See Chapter VI).

Collections under the inheritance tax laws were not separately reported prior to 1900, and it appears that the County Court Clerks were lax in making assessments and collections. Comptroller King reported in 1901 that the law "was only partially enforced prior to the year 1900, but was now proving to be one of the State's most fruitful sources of revenue."¹² Since the tax produced only \$71,377.90 for the biennium ending December 19, 1902, compared to total receipts of more than five millions, the comment appears extravagant. The Comptroller reported in 1903 that the inheritance tax was "becoming more popular as a means of raising revenue," and that "in every contest before the Supreme Court, the law has been upheld."¹³ In 1905, Comptroller Dibrell commented that the inheritance tax law "is a very popular one as a means of raising revenue," and that the County Court Clerks were now collecting "every cent due to the State."¹⁴

The following figures give the collections from the collateral inheritance tax down to the year 1909, when substantial changes were made in the law:

INHERITANCE TAX COLLECTIONS, 1900-1908

(Biennium ending December 19)

1900-1902	\$ 71,377.90
1902-1904	112,014.42
1904-1906	68,619.86
1906-1908	96,062.10

Analysis of the Privilege Taxes of 1896-1897. There had been eighty-three privilege taxes in 1884. By 1896, there were ninety-six, not including the inheritance tax. The practice of basing rates upon the population of the city, town, county or taxing district was even more pronounced than before. While nearly all of the rates were altered during the previous decade, they were now very little if at all higher than previously.

¹⁰Public Acts of 1897, Extra Session, Chapter 4.

¹¹Public Acts of 1899, Chapter 432, Section 1.

¹²Comptroller's Report, 1898-1900, page 18.

¹³Comptroller's Report, 1900-1902, page 13.

¹⁴Comptroller's Report, 1902-1904, page 13.

For the single year ending December 19, 1895, taken as an illustration, the three most productive privilege taxes collected by the County Court Clerk were: The Liquor Dealers Tax, which produced \$183,134.55; the Merchants *Ad Valorem*-Privilege Taxes, \$108,154.40; and the Transfers on Realty Tax, \$19,072.25. These three taxes, which produced nearly ninety per cent of total privilege tax revenues at this time, had also been the most important in 1884. The other privilege taxes produced an average of just over \$1,000.00 each, which indicated clearly the large nuisance-content of the privilege tax system.

Comparing the privilege taxes of 1896 with those of 1884, some changes may be noted: For example, the privilege tax on state banks was changed from a basis of rates based upon population, to a levy of \$1.00 per \$1,000.00 of capital stock and surplus.¹⁵

The tax on gas and electric companies had been divided into more brackets by 1896, and the rate for the top bracket was now \$100.00 per year, instead of \$50.00 as in 1884. The tax on sleeping car companies was five hundred per cent higher than in 1884. The tax on telegraph companies, based in 1884 upon the number of stations or offices, was now measured by the length of wire in the state, and the rates ranged from \$25.00 to \$5,000.00 per year. The tax on Water Companies was 400 per cent higher for the top brackets, than it had been in 1884.

Railroad companies which were not paying regular *ad valorem* taxes in 1896 were subject to a tax of \$10,000.00 (if using more than four hundred miles of track in the state) for "the privilege of doing business." In addition, counties might impose a \$250.00 privilege tax upon such railroads—which the State Comptroller would then collect for the subdivisions, along with the state privilege tax.

Foreign insurance companies now paid a "privilege" of 21½ per cent while domestic insurance companies paid only 1½ per cent. Domestic guarantee companies paid a flat rate of \$200.00 per year, while foreign guarantee companies paid 21½ per cent of gross premiums. Domestic mutuals and co-operative insurance companies were taxed at low flat rates. Fees of \$10.00 per year were required of all insurance companies annually, to be paid to the Secretary of State for filing annual statements. The other privileges were paid to the Insurance Commissioner in 1896 (instead of to the Comptroller as in 1884).

¹⁵Chapter 92, *Acts of 1833-34*.

Telephone companies continued to pay 50 cents per box, Building and Loan Associations paid directly to the State Treasurer, at a rate of approximately \$10.00 per \$1,000.00 of paid-in capital; this was a new tax as compared to the 1884 system.

A tax on corporations, "for the privilege of organizing, or, after organizing, for the increase of their capital stock, or for registration of their charter was imposed, in addition to any other taxes, in 1895.¹⁶ The rates were as follows:

Railroads, over 100 miles.....	\$100.00
Railroads, under 100 miles.....	50.00
Street-car and dummy railroads.....	50.00
Banks, building and loan associations, loan companies, trust companies, coal and coke companies, iron and steel companies.....	25.00
All other corporations	10.00

Though also imposed as a "privilege tax," the above non-recurring payment was in fact a fee rather than a tax. The fee was not required of literary and similar corporations.

Receipts from privilege taxes payable directly to officials in the capital rather than to county officials amounted to little more than \$9,000.00 for the biennium ending on December 19, 1884, while for the biennium ending December 19, 1896, they were nearly ten times as much. One of the most distinct trends between 1884 and 1896 was the increase in revenues from corporations, paying under a variety of taxes and fees.

The Tax Calendar.

Assessment. Assessment of real estate was made biennially instead of annually, after 1896, though personalty was still assessed each year. It will be recalled from Chapter III that after a two-year period in which there was only one Tax Assessor per county, there was a return in 1877 to the system of one for each civil district. In 1887, however, a single County Assessor was again provided; but in 1895 there was again a reversion to district assessors, except for counties of more than 50,000 population, which continued with only one. Election of district assessors was now by the voters, rather than by the County Court as previously, and terms were increased from one year to four years. No assessor could serve consecutive terms, which helped guarantee a greater measure of inexperience and inefficiency.

¹⁶Acts of 1895, Chapter 4, Extra Session.

As before, taxation was supposed to be at "cash value" for all property, personal and real, tangible and intangible. All personalty was now assessed at *domicile* of the owner. Corporate property—or corporations—was assessed where located, "at full market value, but not less than actual value." In 1896, it was made the duty of each taxpayer to secure a schedule from the assessor. This schedule provided for detailed information of all types of real and personal property, and on poll tax liability. The assessor was required by law to "personally interview each taxpayer and take schedules of all property and polls without exceptions." Oath was taken by the taxpayer that the property was listed as required, but evaluation was made by the assessor.

Bank Stock. Shareholders in state and national banks were required to pay an *ad valorem* tax on their stock as personalty, with the *situs* of the bank as place of taxation. As was the case in the 1870's and 1880's, this tax was withheld by the bank from earnings, and was really a tax on the bank, measured by the number of shares. By Chapter 120 of the *Acts of 1895*, the value of the bank's property was deductible from the value of the shares. Real estate of national banks was taxable under *ad valorem* taxes, but personalty of the banks was exempted.

Manufacturing Corporations. In 1896, corporations engaged in manufacture were required to pay the *ad valorem* tax on the value of all their property, real and personal, and, in addition, were taxed on the "full value of the corporate property" (which could not be less than the actual value of its stocks and bonds) at the regular *ad valorem* rate. Schedules of information were required of the corporation officers, and the assessor was also instructed by law to make an actual inspection of physical properties and records. Foreign corporations doing business in the state were taxed similarly on the basis of the proportion of property used in the state.

However, individuals owning stock in manufacturing corporations paying the above *ad valorem* taxes were not required to pay on their shares as personalty.

Assessment of Railroads. Members of the Railroad Tax Assessment commission, who had previously been appointed by the governor, were elected by the legislature, for two-year terms, after 1895. To their duties as assessors of railroad, telephone and telegraph properties, were now added the function of general equalization at the state level, and

they now became the State Board of Assessors and Equalizers. Instead of beginning their assessment work in May, as had been the case in 1884, they now began in January, and on every other year they were required to make a personal inspection of railroad properties—both localized and distributable. A much longer time for assessment was given than previously, since now the assessment was not turned over to the Comptroller until October 15.

Another body, known as the Board of Examiners, and composed of the Governor, Treasurer, and Secretary of State, was given ten days in which to review the assessment. At the end of this time, the final assessment figures were turned over to the Comptroller, who then computed the proportions assignable to the various political subdivisions. Taxes were due on November 1.

Governor Turney, in 1897, forcefully criticised the allowance of such a limited time (ten days) for review by the Board of Examiners.¹⁷ He also denounced the State Board of Assessors and Equalizers for their refusal to re-open hearings and alter their assessments at the request of the Board of Examiners; and he charged the Assessors with "official delinquency," declaring that they had not forced all railroads to file schedules of information, that they kept no minutes or records, and that they chiefly used "Poor's Manual" to arrive at an assessment which was "altogether arbitrary." A suit against the Assessors, brought by the Governor and other members of the Board of Examiners, was decided in favor of the petitioners and a mandamus was granted.

Chapter 5 of the *Acts of 1895*, required the Board of Assessors and Equalizers to assess localized, as well as distributable properties of the railroads, and thus the basis for the present system of assessment was established. The localized properties of telegraph and telephone companies were still assessed by local officials, however, at this time. *Railroad Assessment Act of 1897*.¹⁸ This act created a Railroad Commission to replace the State Board of Assessors and Equalizers. This was composed of three members, elected by the Legislature for terms of two years. A *per diem* compensation of \$6.00 per day was allowed, but not for more than ninety days without the approval of the Governor. Under this law, the procedure was established

¹⁷Quotations in this paragraph from Governor Turney's *Message of January 5, 1897, Senate Journal*.

¹⁸*Acts of 1897, Chapter 5.*

which has continued to be followed, in substance, down to the present time, as follows:

(1). Schedules of detailed information were required of the railroads, telegraph and telephone companies, to be filed with the Railroad Commission by May 1st on each odd-numbered year.

(2). The Commissioners might, singly or otherwise, inspect and examine properties and records of the companies at any time.

(3). Additional evidence might be adduced by calling witnesses. The Commission was required to "have in view and look to the capital stock, the corporate property, franchises of each company, and the gross receipts and the market value of the shares of stock and the bonded debt," in its valuation of the properties. The "distributable properties" were assessed separately and assigned to the political subdivisions according to mileage (as in 1884). "Localized properties," though now assessed and assigned by the Commission, were taxable locally under county and city rates. Thus, after 1895, county and district assessors had no part in the assessment of railroads, and only a limited role in the assessment of telegraph and telephone companies.

(4). The minutes and records of the Commission were open at all times to inspection by the railroad officials, who might file additional evidence and information whenever they wished.

(5). Preliminary assessments were completed by the Commission by the first Monday in August, and ten days were then allowed during which the railroad owners might appear with additional evidence, or file exceptions.

(6). The Revised Assessments were given to the Comptroller by the Commission by the first Monday in September, and promptly turned over to the Board of Review, composed of the Governor, Treasurer and Secretary of State, as formerly.

(7). Final Assessments, as approved by the Board of Review, were returned to the Comptroller by the third Monday in September, and the latter then assigned assessments to the political subdivisions, computed the state tax due, and notified the railroads of their tax liability.

(8). Taxes were payable or due on January 10. If state taxes were delinquent for three days, the Comptroller was

authorized to issue distress warrants for the seizure of the railroad's personalty, which might be sold in thirty days, without benefit of redemption. County and municipal taxes were collected in the same manner as for other property taxes.

Assessment of Merchants Capital. Assessment of the Merchants *ad valorem*-privilege taxes was still performed by the County Court Clerk in each county. The *ad valorem* rate was lowered from 30c to 20c in 1895, but an additional tax of 15c—which was retained in the county for school purposes—was also levied. The privilege tax rate, which in 1884 had been equal to the *ad valorem* rate, was only 10c in 1896, and, of this, 5c was earmarked to remain in the counties for school purposes. The minimum privilege tax was \$5.00.

In 1884, the law relative to Merchants Taxes mentioned only merchants and co-partnerships, but by 1896 it specifically included merchant, person, firm, company, co-partnership, or corporation. This tax was imposed on an assessment determined by (1) the amount of capital invested during the preceding year (which might not be less than the average amount of stock on hand during that time), plus (2) all capital employed in which there was no stock of goods kept on hand for sale. For corporations, the law stipulated that the aggregate of (1) plus (2) might not be less than the capital stock. It is clear from the above that "Merchants Capital" was, in the last analysis, what the law said that it was.

The merchant was required, as previously, to post bond guaranteeing that he would submit a schedule of his "capital" and pay his taxes at the end of twelve months of operations.

Privilege Tax on Transfers of Realty. This tax was imposed at the rate of \$1.00 per \$1,000.00 of consideration received on realty transfers; but it was stipulated that the consideration must not be less than the "true value." The tax was collected as a "privilege" by the County Court Clerk, and was normally payable by the vendee.

Equalization. When the district assessors were replaced (for the second time) by a single county assessor in 1887, a County Equalization Board was also provided for, composed of the County Judge, Tax Assessor and three freeholders. In 1889, a fourth freeholder replaced the Tax Assessor on the Board, and this organization was still in effect in 1896. The four freeholders were selected by the

County Court at its April session. Thus the old system of equalization by means of the district assessors, noted in the two previous chapters, no longer prevailed even for those counties which had district assessors instead of a single county assessor.

The assessors (or assessor, in larger counties) were now given until the first Monday in June to submit their assessment lists to the County Court Clerk (instead of by March 4, as in 1884). On the same day, the County Board of Equalizers met to examine the assessment lists and "carefully examine and compare and equalize the assessments," eliminating non-taxable properties, hearing complaints, and, if necessary, correcting clerical errors. Corrections were entered in the tax books without altering the assessors' lists. A second meeting of the Equalizers on the first Monday in July might be held to hear the complaints of persons whose assessments had been raised. Properties which the assessor had failed to list might be added by the Equalizers. Since the Equalizers were instructed to return the tax books to the Clerk on the date of their second meeting, it is clear they were expected to function only one day.

State Board of Assessors. The State Board of Assessors and Equalizers, who assessed railroad properties prior to 1897, were also required to examine the tax aggregate from each county, making necessary increases or decreases to equalize and secure a "fair cash value," and adding personalty to the lists if they knew of such properties not listed. The State Board was authorized to visit any counties in which irregularities were suspected to exist. There was no appeal from this Board on questions of fact.

If the State Board had completed its work in time, the County Court Clerks of the various counties then turned over the tax books, as corrected, to the County Trustees, by the first Monday in November (compared to the first Monday in October in 1884).

Back Tax Assessment. Any county official knowing of properties or privileges which had been omitted by the Tax Assessors, was required to cite such persons to appear before the County Trustee (or Clerk, for Merchants Taxes) and have the assessment made. A penalty of 50 per cent was to be added if the evasion was willful or knowing, and if collection of such "picked up taxes" was through the medium of the Back Tax Attorney, an additional ten per cent was added. Back assessments of omitted properties might not be made after three years, however.

Collection of Delinquent Taxes. Taxes on property and polls were due on November 1st of the year in which assessed, both for county and state (and most municipalities). If not paid by the first Tuesday in February, interest began to accrue on unpaid taxes.

Between the first Tuesday in February and the first Monday of March, the Trustee was required to supply the Constable of each civil district with lists of delinquents, with authorization to seize and sell personalty for taxes, or collect by garnishment. The Constables were to report and pay by the third Monday in May.

By the first Monday in June, the Trustee was required to give a list of still-delinquent tax-payers to the Back Tax Attorney, securing a receipt which he then used for "credit" in "settlements." After advertising delinquencies for thirty days (giving description and abstract of each tract), the Attorney proceeded alphabetically and by districts to sell the property at the courthouse door for taxes, costs, fees and interest accrued. The Attorney had received 25c for each tract advertised and \$1.00 for each abstract included in the advertisement, and he now received 10% of the tax sales. Purchaser at a tax sale received a certificate by the Attorney. If the property was unredeemed at the end of two years, the Attorney issued a deed with the same force as though issued by a Court of Record. Redemption during the "period of grace" was by paying all accruals in full.

The above procedure applied particularly to real estate. However, the Back Tax Attorney was also empowered to sell goods and chattels within sixty days after receiving delinquent lists from the Trustee, and to collect by garnishment.

The Back Tax Attorney collected both state and county taxes by the above procedure, as well as municipal taxes normally collected by the County Trustee.

If no adequate bids were secured at tax sales, the Attorney bid in the property for the use of the state, county and municipalities—in that order. Subsequently, the Back Tax Attorney might sell this property at a "private sale," subject to the two-year period of redemption. After two years of ownership of such property by the state, the Attorney might sell on six months' credit without the equity of redemption. If proceeds exceeded all liabilities against the property (which was highly unlikely), the excess was returned to the former owner.

Trustees' "settlements" with the Comptroller, County Judge and municipal authorities were required each month by Chapter 120 of the *Acts of 1895*. Full statements showing the year's collections, delinquents, disbursements and balances were required of the Trustees by the first Monday in July, and these were published in the newspapers.

A County Revenue Commission of three citizens, to be appointed by the July session of the County Court, were also provided in 1895. One of the Commissioners was required to be an expert accountant. The duty of this body was to audit the books, records and settlements of county officers, reporting quarterly to the County Court. Compensation of the Commissioners was determined by the Court, on a *per diem* basis. Their term of office was for one year.

State Revenue Agents. Not more than five State Revenue Agents, to be appointed by the State Comptroller for four-year terms, were provided for in 1895. Their duties were to examine the books, records, claims, settlements, etc, of state and county revenue officers, to collect from delinquent officers, to collect delinquent privilege taxes, and, if necessary, to bring suits for *malfeasance* or *misfeasance* against tax assessors.

The Revenue Agents were allowed a commission of 15 per cent on the above types of collections, except for delinquent privilege tax collections from railroads and telegraph and telephone companies, on which 10 per cent was allowed. Monthly reports to the Comptroller were required of the State Revenue Agents.

Despite the obvious defects in the system of tax collection as it existed in 1896, improvements over the two previous decades may be discerned, and the reports of the Comptrollers indicated fewer delinquencies, larger recoveries on delinquencies, prompt payment of collections by county collectors, to the state, and fewer defalcations by fiscal officers. The system of assessing railroads and some other utilities was definitely improved by the changes made in 1897. The Back Tax Attorneys and State Revenue Agents were almost continuous targets of attack and criticism, even by some Governors, and it is evident that at times their compensation was excessive, but their activities as a whole were beneficial to the revenue system. The chief defects in tax administration were inefficient assessment, inadequate and inequitable equalization, and weakness in tax titles.

Developments From 1896 to 1907.

Comptroller Harris reported in 1894 that when he took office on February 3, 1893, there was a current deficit of \$2,296,000.00 with pressing liabilities of nearly one-half million shortly due. Further loans enabled these payments to be met until midsummer, when the country was prostrated by the "Panic of 1893." "Collections of every character, especially privileges, decreased for a while fully fifty per cent," Harris reported.¹⁹ Default on interest payments of January 1, 1894 appeared to be certain, but was averted by the Comptroller's request to the County Trustees that *ad valorem* collections be sent one month early, if possible. The railroads also voluntarily paid their *ad valorem* taxes in December, 1893, instead of waiting until February, 1894. "In this way," said Comptroller Harris, "sufficient revenues were collected to enable us to pay the interest. Since then, the sale cause for worry has been the size of the surplus."²⁰

During the last decade of the Nineteenth Century, despite the sharp "Panic of 1893," the fiscal position of the State continued to improve. In 1892, nearly one-half million dollars worth of new bonds were floated at four per cent and the proceeds used to retire six per cent bonds. Other six per cent bonds were refunded into four and one-half per cent bonds during the early part of 1893.

Payment by the State to the counties for "criminal costs" continued to be an important element in expenditures during the period 1896-1897. Comptroller Harris referred in 1894 to "a negro magistrate, who, it is said, made during his term an average of \$7,500.00 per annum, over twice as much as a Supreme Court Judge receives. Our criminal cost system is rotten from core to rind."²¹ One is surprised at both the figure and at the existence of a negro magistrate in the State.

Attempts were continued during this period to enforce the *ad valorem* tax on all types of property, but it was increasingly apparent that personalty was largely escaping, especially intangibles. Comptroller King reported in 1900 that: "It is conceded by well-informed persons that the value of personal property is nearly, if not quite, equal to that of realty, yet the assessed value for 1899 was only 12.2 per cent of real estate."²² He declared that "the citizens

¹⁹Comptroller's Report, 1894, p. 6.

²⁰Comptroller's Report, 1894, page 20.

²¹*Idem*.

²²Report of the Comptroller of the Treasury, 1900, page 14.

are hiding or concealing personal property,"²³ and he recommended punitive laws against this practice. He included the following table in his biennial *Report* to show how excessively personalty was escaping taxation in Tennessee.

RATIO OF PERSONALTY ASSESSMENT TO REALTY
ASSESSMENT, (1899)¹

Alabama	47.18%	Missouri	22.01%
Arkansas	34.62	North Carolina	33.34
Florida	20.58	South Carolina	32.49
Georgia	36.87	TENNESSEE	12.21
Kentucky	20.53	Texas	30.98
Louisiana	32.22	Virginia	27.05
Mississippi	29.19	West Virginia	27.25

¹Report of the Comptroller of the Treasury, 1900, page 16.

It may seem from the above table that Tennessee's proportion of personalty to realty assessment was only one-fourth to one-half that of the other states. In actual amounts, personalty assessments were only \$50,153,219.00 in 1892, \$34,212,533.00 in 1896, \$48,493,768.00 in 1900, and \$57,427,866.00 in 1905.²⁴ Clearly the *ad valorem* tax on personalty was very close to being "repealed" by non-enforcement and avoidance. At each of the dates given above, total bank deposits in the state exceeded assessed value of personalty.²⁵

Litigation with railroads which continued to claim partial or complete tax exemption continued during this period, though an increasing number of the lines submitted to regular *ad valorem* taxes. An interesting example was the State's controversy with the Mobile & Ohio Railroad. This line had been chartered in 1848, with provisions that its capital stock should be forever exempt from taxation, and that its physical properties should be exempt for a period of twenty-five years from time of completion of the railroad; and it was further provided that "no tax shall ever be laid on said road or its fixtures which will reduce the dividends below eight per cent."²⁷ In 1891, several counties, as well as the state, tried to collect property taxes from this railroad. A chancery court decision in 1892²⁸ held that the line had been liable for tax payments since 1886. This decision was affirmed in the State Supreme Court in 1893, but was reversed in the United States Supreme Court in the same year, thus apparently making the line immune unless and until it should earn 8 per cent profits.

²³*Ibid.*, page 15.

²⁴Figures taken from the various *Comptrollers' Reports*.

²⁵Figures from *Statistical Abstracts of the United States*.

²⁷Quoted from charter, in *Comptroller's Report*, 1894, page 4.

²⁸*Ibid.*, page 5.

Comptroller Harris believed that the railroad might be held liable for *privilege tax* payments, however, and he filed suit in 1896, seeking to collect such taxes for seven years. The Mobile & Ohio then indicated a willingness to "compromise," and suggested that if the State would not levy or attempt to collect privilege or *ad valorem* taxes for a period of twenty-one years, the company would "voluntarily" contribute a flat sum of \$30,000.00, plus \$7,000.00 per year, to the Treasury; and at the end of twenty-one years, the line would waive any claims to tax exemption. The Legislature accepted this proposal after reducing the "compromise period" from twenty-one to ten years.

Governor Turney, however, denounced the settlement as a violation of the uniformity clause of the Constitution, discrimination in favor of the railroad, and class legislation. The case was thereupon re-opened, the compromise was held unconstitutional, and the line was declared to be liable for payment of privilege taxes.

After the railroad assessment law of 1897 (previously described in this chapter) was passed, several railroads brought suit on the grounds that railroad assessments were fixed at a higher proportion of actual value than other properties. This was undoubtedly true, since investigations into local assessments had revealed that real estate valuations were frequently set at from twenty to sixty per cent of actual market value; and personalty was, as noted, largely hidden. Most of the railroads were still paying under protest in 1899.

Previous pages in this chapter have described the functions of the Back Tax Attorney in 1896. The diligence of these officials made them unpopular with taxpayers and legislators, and the large commissions which they collected made them vulnerable to criticism, with the result that the office (one per county) was abolished in 1897. Governor Robert Taylor favored this step, dramatically stating in his inaugural address of January 21, 1897 that:

It is not a political contest which confronts us—it is taxes. It is not political martyrs which our country demands in these troublous times—it is relief from the Sheriff's sale and the Back Tax Attorney's executions.²⁹

Comptroller Harris' rash remark in 1894 that "the sole cause for worry" was the size of the surplus, led to a reduction of the *ad valorem* tax rate from 30 cents to 20 cents. As a result, total receipts for the biennium ending December 19, 1895 declined by approximately one million

²⁹Message, in the *Senate Journal*, 1897, page 166.

dollars, or twenty-five per cent, and forced the state to resort to short-term borrowing to meet interest payments and other current expenses. The 30c rate was restored in 1897, and collections increased by nearly 35 per cent during the next biennium, although total assessments declined somewhat, presumably due to the abolition of the Back Tax Attorney's office.

The penal system continued to present the State with difficulties during the 1890's. The leasing of the State's convicts to private corporations, to be used as the latter saw fit, had begun in 1866. Expenses of feeding, clothing, guarding and other costs were borne by the companies, and the State received payments which approximated \$100,000.00 per year (net) during this period. The prisoners were chiefly used to mine coal, and the spectacle of hundreds of wretched convicts chained to flat-cars and transported a hundred or more miles from the capital to the coal fields was frequently presented to the people of the state. Appalling conditions at the "stockades" or prison camps were reported by legislative investigating committees. Protests against this barbarous system were heard from its inception, voiced both by humanitarians and by free miners whose livelihood was destroyed by this form of slave labor, but the miners were unorganized and not numerous, and the voice of conscience was less persuasive than the desire for lower taxes and cheap labor (with cheaper coal) (for railroads and other corporations) for nearly three decades. The free workers frequently resorted to violence, and stormed the prison stockades near the mines, burning them to the ground and freeing all the prisoners. The disorders were especially severe during the administration of Governor Buchanan in 1891-1893, when state troops were used. The Governor was sympathetic with the free miners, and opposed the convict-lease system, calling for its termination when the contract should expire in 1896. However, the fact that the main prison in Nashville, even with severe overcrowding, would house only six hundred of the State's fifteen or sixteen hundred prisoners, made the construction of a new and larger penitentiary an urgent necessity.

Governor Peter Turney called upon the Forty-eighth General Assembly to authorize bonds for the construction of a new and modern penitentiary of fifteen hundred cells, with workshops and farm lands, and provisions for segregation of hardened criminals. He also proposed that the State purchase coal fields and work the prisoners under

humane conditions in State-owned mines. Both of these proposals were carried out in 1896-1897. By 1897, Governor Turney, reported that despite the end of the lease-system (except for some in-prison work, using prison shops), the penitentiary was already self-supporting through the sale and use of coal, farm products, and prison-made goods. He also declared that the competition of the State mines with private operators helped prevent "unreasonable and exorbitant coal prices by the monopolies."⁸⁰ Needless to say, the private mine operators opposed the sale of State-produced coal. It had previously been to the interest of the penitentiary's lessees to have as many persons committed to the state penitentiary as possible, and it was charged that the lessees sought to influence legislation in such a way that misdemeanors which normally would be punished by terms in the county jails would instead be punished by terms in the State penitentiaries. Counties also saved money by thus defining petty crimes as felonies. Governors repeatedly called for punishment of minor offenses by work on county roads or in county workhouses. After the contract system was abolished in 1896, and State-owned mines began to compete with private mines, it was then to the interest of the private operators to reduce as much as possible the amount of convict labor; and in 1897 the Legislature finally redefined certain offenses as misdemeanors punishable locally, thereby reducing the State convict-population.

Governor Frazier declared in 1903 that the penitentiary was "more than self-sustaining,"⁸¹ although profits were coming from the coal mines rather than from the shops of the main prison at Nashville. In 1904, the "net profits" from prison labor were \$195,017.56, and in 1905 they were \$185,516.68, according to *Comptrollers' Reports*.

The Legislature authorized the purchase of 15,000 more acres of coal-bearing mountain lands in 1905, and the production of coal by the State, using convict labor, has continued down to the present time, although the coal is no longer sold on the open market in competition with private companies.

Another development of importance during this period was the establishment of a sinking fund in 1899, into which payments were begun in 1900, for the retirement of the State's bonded debt. The period from 1900 to 1914 saw a debt reduction of nearly forty per cent, which brought the total to the lowest figure since before the Civil War.

⁸⁰Message of January 5, 1897, *Senate Journal*, page 33.

⁸¹Message of January 3, 1903, *Senate Journal*, page 19.

The Legislature, in 1903, following the recommendation of Governor Frazier, approved a bill which required that any surplus in the Treasury on December 31st, in excess of the ten per cent of gross receipts which were paid into the sinking fund, should be distributed to the public schools. It was pointed out that more than 20.50 per cent of the State's revenues had been paid into the sinking fund in 1902, and this was held to be excessive.

Under the law mentioned in the previous paragraph, \$271,614.35 was available for educational use at the end of 1903 and \$498,369.30 at the end of 1904. These amounts were in addition to the sums which were distributed to the public schools as interest on the "perpetual school fund" as well as the receipts from the State's poll tax and the *ad valorem* levy of 15c (previously mentioned in this chapter). Both of the two latter items were retained in the county and did not pass through the State Treasury. County Courts were not allowed to levy a tax for educational purposes which exceed the State rate, although municipalities had possessed the right to tax at their discretion for educational purposes since 1885. The appalling scarcity of revenues for rural schools resulting from these limitations goes far to explain the backwardness of public education in the state at that time. The average term of these schools in 1903 was only ninety-five days. The Legislature in 1905 approved the "Tollett Law" which appropriated \$250,000.00 annually for distribution to the counties on the basis of scholastic population, plus \$50,000.00 to be distributed by the State Board of Education to districts unable to support an average school term. While reducing somewhat the amount to be expended, as compared to the previous year, this law substituted a fixed appropriation for expenditures which had previously been based upon an uncertain surplus.

In 1907, additional educational appropriations were provided for public education by the "Chesnut Law," which authorized an expenditure from the surplus (if any) of 50c per child of school age in districts which could not support regular school terms out of the normal school tax levy.

The State University received nothing during this period, except \$25,000.00 during the biennium 1904-1906, and \$100,000.00 during the biennium 1906-1908. Payments of \$20,000.00 to \$24,000.00 per year were made to the State Normal College (later Peabody) from 1900 to 1904, but only \$8,054.50 was granted in 1904-1906.

The year 1909 is generally considered a great educational milestone of recent Tennessee history, but it is clear from the above developments that the trend toward more State expenditures for education began several years before this date. Nevertheless, the surface had hardly been scratched by 1907, insofar as supplying the State with an adequate public school system was concerned; and the policy of the State toward higher education up to that year was undeniably, as Governor Patterson said, "very niggardly."³¹ The statement of Governor John C. Brown in 1873 that "Tennessee is third in ignorance of the States of the American Union,"³² could still be heard, as though a continuing dismal echo, in the words of Governor Hooper in 1911 that "Tennessee is forty-sixth in illiteracy among the states."³³

In 1901, the number of State Revenue Agents was decreased from five to three. In the same year, Comptroller King suggested that assessment of all corporations should be placed under a single board to secure more uniformity in valuation. His suggestion was not followed, though more public utilities gradually came under the Railroad and Public Utilities Commission.

In 1905, Legislative action brought the State's charitable institutions under centralized control by requiring that payments be made only upon issuance of Comptroller's warrants. Comptroller Dibrell estimated that \$56,000.00 was saved thereby in 1906-1907.

During the latter part of this period (1896-1907), Governors and Comptrollers began to recommend that a State system of bank supervision and examination be set up, patterned closely after that of the National Banking System. Despite frequent bank failures, however, no action was taken until 1913. This will be noted in the following chapter. There were also suggestions that a State Auditing office be created, but again no action was taken until 1913.

The system of district assessors in the counties came under increasing criticism after 1900. Other defects in the revenue system, which have previously been noted in this chapter, led in 1907 to the enactment of a new assessment law. Since this law still remains the basis of Tennessee's assessment and collection system at the county level, it will be reviewed in detail in the following chapter.

³¹Message of January 23, 1907, *Senate Journal*, page 112.

³²Message of January 9, 1873, *Senate Journal*, page 10.

³³Message of February 1, 1911, *Senate Journal*, page 378.

Chapter VI

THE REVENUE SYSTEM IN 1907

Chapter 602, *Public Acts of 1907*, revised the system of assessment and collection, and established the procedure which, in most respects, is still in use.

Exemptions. The new law reiterated that all property except such as should be specifically exempted by law or of Constitution, should be taxed *ad valorem*. Property owned by state, local and municipal governments (as well as by the Federal government) was exempted if "used exclusively for public or municipal corporation purposes"; properties owned by religious, educational and scientific institutions and used exclusively for institutional purposes were specified as exempt; the usual list of public thoroughfares, cemeteries, monuments, etc., generally exempted, was included as tax-exempt. While the usual constitutional provisions relative to exemption of "direct products of the soil," "articles manufactured of the produce of this State," and "one thousand dollars of personalty in the hands of each taxpayer" (See Chapter II) were specifically included in the new law, it was provided that personalty held in trust to a minor, parents, etc, was presumed to be taxable and not entitled to the exemption, unless specifically proven before the County Board of Equalization to be a *bona fide* trust.

Assessment. Assessment date continued to be January 10th. Realty was of course assessable at its *situs* except that property held by executors and administrators was assessable where the decedent had his residence at the time of his death, or (if the deceased had not been a resident of the state) where the representative resided at that time.

Personalty was now—both tangible and intangible—assessed at the residence or domicile of the owner, whereas only intangibles had been assessed at the domicile of the owner in previous laws.

Properties of gas, electric and street-car companies were assessed as though located within the city, town or taxing district in which the main business was done, even though the main office was not located within the jurisdiction. It was further provided that all properties of corporations (including franchises) should be assessable in the taxing jurisdiction in which their chief business was done, except for realty and personalty actually located elsewhere.

Interests in mineral and timber properties were now required to be assessed to the holder of such interests, separately from the interest of the freeholders; and both were assessed as real estate.

Assessment of Corporations. Certain gas, electric, water-works and other companies were designated as "quasi-public corporations" and were required to pay *ad valorem* taxes upon "the actual cash value of their corporate property, including franchise-ments, easements, incorporeal rights and privileges and all other corporate property—to be assessed at not less than the aggregate cash value of both its shares of stock and bonded debt." From the sum of the above values should be subtracted the assessed value of real and tangible personal properties (which were assessed in the usual way). The remainder was the taxable assessed value of the corporation. Obviously this plan undertook to tax the full or "going concern" value of such corporations.¹

It should be noted that the "quasi-public corporations" to be assessed in the above manner did not include railroads, street and inter-urban electric railways, telephone and telegraph companies, building and loan associations, insurance companies, manufacturing corporations and banking companies, which were assessed under procedures later to be noted.

Detailed schedules of information were required of the chief officers of the corporations classified as "quasi-public," in order to enable the assessor to determine the "corporate value." Full rights to inspect books and properties were also given the assessor.

Assessment of Manufacturing Companies. Persons, co-partners, and joint-stock companies engaged in manufacturing and processing goods, were required to pay the *ad valorem* tax on all property used in their business, except "articles manufactured of the produce of this State"² which enjoyed the constitutional exemption previously noted. As in the case of the "quasi-public corporations," an attempt was made to assess the full "going concern value" of the company, and the same general procedure was employed. However, the act specifically exempted the shares of stock of such companies, in the hands of stockholders. In the terminology of this act, "corporate property" and "capital

¹This procedure was upheld in *Carroll V. Aisup*, 23 Pickle, 257.

²State Constitution, Article II, Sec. 30.

stock" were used synonymously, while "shares of stock" were held to be a separate object.

Manufactured articles were held to be taxable unless it could be demonstrated that they were actually manufactured of the produce of the state, and the owner was required to supply correct values for such exempt goods.

Provision was made for *pro-rata* allocation of the property of companies located in more than one taxing jurisdiction.

Assessment of Shares of Stock. Shares of stock in banks, loan companies, insurance companies, investment companies, cemetery companies, and other companies not classed as "quasi-public corporations," were taxable to the stockholders as personalty; but they were assessable at the *situs* of the company's main office, and not at the *domicile* of the stockholder. From the total value of the stock shares, the assessed value of the corporation's (or company's) realty and personalty was deducted, however. The regular *ad valorem* rate was applied to the net value of the shares (as determined above), and the chief officers of such companies were required to pay the tax for the shareholders. This tax possessed a prior lien upon earnings. In case of delinquency, the shares of stock might be attached. This share-tax, collected "at the source," applied to non-resident stockholders as well as to residents. It should also be noted that this tax applied to the "shares" of proprietors of single enterpriser firms and partnerships, as well as to corporations.

The above plan for taxing "shares" had previously been used in the taxation of bank stock. Now its use was greatly widened.

Assessment of Companies with Charter Exemptions. Corporations whose charters possessed tax-exemption clauses were required to be assessed as other corporations. Credit was then allowed on the basis of the specific charter exemptions only insofar as such exemptions had been held valid by a Supreme Court decision. Otherwise, no *ad valorem* or privilege exemptions were granted. Thus, the law of 1907 laid the burden of proving charter and other exemptions on the taxpayers.

Assessment of Railroad, Telegraph and Telephone Companies. The procedure used by the Railroad Commission in assessing and taxing these companies continued to be the same as that described in the previous chapter.

Assessment of Inter-urban Railroad and Street Railroad Companies. The Railroad Commission was given authority by Chapter 513 of the *Public Acts of 1905* to assess these properties for the purpose of *ad valorem* taxation by state, counties and cities. Assessments were made biennially. Schedules of information were required of such corporations by April 1st, and failure to submit the required information might result in a \$1,000 fine and assessment by the Commission, without recourse. All pertinent facts were to be considered in making the assessments, and personal inspection of properties and records, and the hearing of witnesses might be employed by the Commission. The assessments were divided (as in the case of railroads) into distributable and localized properties. Allocation to political subdivisions was on the basis of mileage.

Preliminary assessments were completed by the 1st Monday in August. Ten days were given to hear exceptions. Revised assessments and a record of the proceedings of the Commission were turned over to the Comptroller by the 1st Monday in September.

Inheritance Taxes in 1907. As noted in the last chapter, the collateral inheritance tax was not materially changed from 1893 until 1909. No changes in this tax, or its administration, were made by the 1907 law, and it continued to be locally assessed and collected by the County Court Clerks.

Personal Property Assessment. "All and every kind of personalty" was required to be listed by the law of 1907. Ten classifications of personalty were listed by the law, including household goods, implements, vehicles, tools, livestock (including dogs), water craft, receivables, bank deposits and cash. It was required that income from all bonds and stocks be declared. United States bonds did not require listing as to principal value, however.

Real Property Assessment. The law of 1907 required much more details of the taxpayer than formerly, relative to ownership, location of property, exact nature of the property, and value. Schedules were supplied to the assessors by the State Comptroller, and it was now made the duty of the assessors to supply the taxpayers with schedules and see that they were properly filled out and returned within designated dates. The taxpayer was required to swear to the correctness of the schedules of property, though not as to the value, which was computed by the assessor, as formerly.

If the taxpayer should fail to make out the schedules and return them to the assessor by April 20th, assessment was made by the assessor; and if the taxpayer failed to show cause to the County Equalization Board that would justify his delinquency, the assessor's valuation stood without change. In addition, the taxpayer was held to be guilty of a misdemeanor and subject to a fine of from \$10 to \$50.

The Tax Assessor. The law of 1907 abolished the District Assessors office for the counties which still retained them, and substituted a single County Assessor, popularly elected for a term of four years, the term to begin on January 1st following election at the preceding August elections. His salary was fixed by law for all counties over 6,000 population, and by action of the County Court in smaller counties. Deputy Assessors might be provided if necessary.

The County Assessor was bonded to guarantee his assessing at "actual cash value," as well as the performance of his other duties. It was made unlawful for the Assessor to assess improperly, or to assess any property or polls solely by copying the records of the former Assessor. It was his duty to report all persons failing to make out their assessment schedules.

The Assessor was required to examine realty by actually visiting the property; to get a personal statement of all property from the property-owner or his agent; and to seek out all property both of resident and non-resident owners "by diligent search" and by interviews with other persons. He was instructed to secure witnesses and make thorough investigation when misinformation or concealment was suspected. False swearing by the taxpayer relative to his schedules of property was made perjury.

The Tax Calendar.

It has already been noted that properties were assessed as of January 10th, and the Assessor was required to submit his lists of assessments to the County Court Clerk by the 1st Monday in June.

State Board of Equalization. This board, composed of the Governor, Treasurer, and Secretary of State, reviewed the assessments of the Railroad Commission. It might call for further evidence, and was empowered to revise assessments upward or downward. The final assessments were given to the Comptroller, for allocation and collections, by

the 3rd Monday in October. Thus the State Board had seven weeks in which to review and make final assessments.

Re-assessment or back assessment might be undertaken only if the Railroad Commission was instructed to do so by the Governor; and such re-assessments were also subject to review and revision by the State Board of Equalization.

Merchants Assessment. Assessment procedure was not materially altered with respect to valuation of "merchants capital" by the law of 1907. The average stock—computed by dividing the maximum and minimum stocks held during the preceding year by two—less the cash value of furnishings and fixtures of store and office, constituted the minimum assessment; and it was further provided that this "average capital" might not be less than the "capital stock actually employed."

The regular *ad valorem* rate was applied to the above "average capital assessment." In addition to the *ad valorem* tax, merchants were required by the law of 1907 to pay a privilege tax of 15c per \$100 of "average capital assessment," of which 7½c were retained in the counties for school purposes. The privilege tax had also been 15c in 1896, but only 5c had been retained by the counties for educational purposes.

County Court Clerks continued to collect the Merchants Taxes. Real estate was assessed every other year, while personalty and polls were assessed annually. Changes of ownership of realty were reported yearly, as also were improvements to real estate made during the year which exceeded \$200 in value.

Taxes became a lien on property on January 10th, operating not only against the interest of the person listed as owner, but also against the fee in the property. Tax liens took precedence over mortgage liens, even when taxes accrued subsequently to the mortgage lien. However, if steps were not taken within eleven years to collect under tax liens, the statute of limitations operated.

From the Assessor's lists, the County Court Clerk made out a tax book which he delivered to the County Trustee by the first Monday in October. The tax book showed property-owners in alphabetical order, together with description and valuation of their properties, and the amount of taxes due, including poll taxes. Properties (with their assessed value) located within municipalities were noted in the book.

Taxes were due in October—on the first Monday—, and were payable to the Trustee in the case of all property and poll taxes, except the Merchants Tax. It was stipulated that poll taxes should be paid before the Trustee accepted payment of other taxes—unless the taxpayer proved exemption from poll taxes. Receipts for property and poll taxes were given by the Trustee, who kept duplicates for use in making “settlements.”

All privilege taxes were collected by the County Court Clerk as before, except those which were paid directly to the Comptroller in the capital, or to the Insurance Commissioner, State Treasurer, or Secretary of State. Some of these latter were actually “fees” rather than taxes.

Lists of persons and firms liable for privilege taxes were furnished by the County Court Clerk by the Tax Assessor. It was declared a misdemeanor punishable by fine to carry on an activity designated as a “privilege” without paying the tax or—in the case of merchants, liquor dealers, etc.—making bond to report and pay taxes at the end of twelve months.

After the following March 1st, unpaid taxes bore interest, and a penalty of 1 percent per month accrued thereafter.

Equalization.

County Board of Equalization. The law of 1907 provided for a County Board of Equalization to be composed of five freeholders and taxpayers, persons who had been citizens of the county for at least five years. These members were elected by the County Court at its quarterly session in April, and members of the Court were ineligible. Compensation of \$2 per day was provided.

Sessions of the Equalization Board began on the first Monday in June each year, and it was required that their work be completed within twenty-five days, unless the time was extended by the County Judge. Three of the five members provided a quorum.

The Equalization Board was ordered to examine the tax book, with instructions to alter and equalize property assessments, if necessary, in order to fix “the value in money the property would sell for if sold at a fair voluntary sale.” Complaints were heard, and any kind of alteration might be made, provided, however, that increases in assessments

required notification of the owner and giving him an opportunity to be heard. The Board was instructed by the law to examine sales recorded on the books of the County Registrar during the past year, if made at "voluntary sales," and use these as samples or models for determining assessment values of similar properties.

Prior to final adjournment, the County Board of Equalization was required to submit a report to the State Comptroller, composed of an aggregate of assessments and a summary of the Board's proceedings. The Board was instructed to call upon the Tax Assessor for information and assistance in making equalizations. The Board's actions were final, except for review at the state level, and extra columns in the tax book were provided for the recording of their actions.

The Board was also instructed by law to report any Tax Assessor suspected of neglect of duty. Fines were provided for all assessors, equalizers, clerks and trustees who underassessed or otherwise failed to carry out their duties in detail.

State Board of Equalization. It will be recalled that in 1896 review of assessments at the state level had been a function of the State Board of Assessors and Equalizers (Public Utility Commission). However, the State Board of Assessors and Equalizers was formally converted into the Railroad Commission in 1897, with much broader duties, and it was necessary to create a new body to review and equalize the county assessments and aggregates. Thus was created the State Board of Equalization, composed of the Secretary of State, State Treasurer, and State Comptroller, serving *ex officio* without added compensation.

This Board met biennially some time between the 2nd Monday in July and the 15th of September. Between 1899 and 1907, the Board had full powers to review and equalize assessments, individually or by counties, but the law of 1907 reduced their powers merely to that of reviewing individual assessments. This unfortunately deprived them of their most important function—that of equalization among the counties as a whole—and converted it into a complaints board for disgruntled (or influential) individual taxpayers.

The law of 1907 failed to simplify the rather complicated system of review and equalization at the state level. There were still three agencies,—the Railroad Commission, which assessed railroad, telegraph, telephone, and (after 1905)

street railway and inter-urban properties. Review of railroad, telegraph and telephone assessments was performed by the State Board of Review, composed of the Governor, State Treasurer, and Secretary of State; but the street railway and inter-urban properties, also assessed by the Railroad Commission, were subject to review by the State Board of Equalization, composed of the Comptroller, Treasurer, and Secretary of State; and it was this latter body, as noted previously, which could review and alter individual properties which had been assessed at the county level.

The State Board of Equalization also heard appeals of the State Revenue Agents on the matter of back assessments; and they laid down rules of procedure to be followed by the County Boards of Equalization, and reported illegal actions of county revenue officials to the Comptroller (who was a member of the Board) for prosecution through the District Attorneys or through the State Revenue Agents. Actions of the State Board of Equalization in reviewing assessments were reported to the Comptroller, who notified the County Trustee to make the necessary alterations in the tax book.

Collection of Delinquent Taxes. *Ad Valorem* taxes not paid by March 1st were given to a deputy for collection through seizure of personalty, which might be sold after ten days notice, or through garnishment of wages if no personalty was available. Delinquent poll taxes were collected by the same process, but poll taxes did not begin to carry interest (and a penalty of 1 per cent per month) until May 1st.

After May 1st, the Trustee advertised delinquent real estate for sale, and if the taxes were unpaid by June 1st (with interest and penalty) the property was offered for sale at the courthouse door. It was required that sales should continue from ten to four o'clock until the property was disposed of. Purchasers could not buy for less than the amount of the taxes, interest, penalties and costs. Buyers received a "purchase certificate" from the Trustee (who was subsequently required to file a list of buyers in the office of the Circuit Court Clerk), and this gave title in fee simple, the occupant of such property becoming the tenant on January 1st following the tax sale.

If inadequate bids were received at tax sales, the property was "struck off" to the Treasurer of the State for the amounts accrued against the property, and provisional title was vested in this official. No further tax sales should

then be made of these properties for taxes subsequently accruing. Lands held by the state might be rented if a year's rent would at least pay taxes and other charges, and such a renter would be given right of possession.

After a tax sale to private purchasers, the property continued for two years to be assessed to the former owner who might redeem the property ("or any person for him or any creditor of such owner") by paying all taxes, interest, penalties and costs which had accrued, including 5 per cent of the whole amount as the Clerk's fee and a 50c fee for issuance of the certificate of redemption.

Lands "struck off" to the State might subsequently be sold by the Clerk to anyone willing to pay taxes, interest, costs and penalties, subject to a two-year redemption period. However, if such property had already been held by the State for two years, purchase might be made without further redemption period being required.

Private purchasers at a tax sale were required to pay taxes which were imposed during the two-year redemption period or face the prospect of another tax sale. If tax sales should bring more than the taxes, interest, and other charges accrued against the property, the surplus receipts were to be held by the Clerk until expiration of the period of grace (two years), then returned to the former owner. Such surplus might also be credited to the former owner who redeemed his land within the two-year period.

Against a tax title, described in the law of 1907 as "a perfect title," no suit might be brought except on proof that the land was not liable to sale for taxes or that the taxes for which the land was sold had been paid before said sale; and no suit on any account might be brought after three years. The plaintiff was required to deposit an amount equal to all accrued taxes, penalties, interest and fees, before bringing suit.

The assessment law of 1907 clearly provided a more efficient method of collecting delinquent taxes than previous laws had provided, and tax titles were considerably strengthened. It would appear that procedure was still too lengthy, that the "period of grace" for redemption was unnecessarily long, and that suits of the kind mentioned in the previous paragraph should be directed against the tax officials rather than against the purchaser at a tax sale. Also, initial penalties were not adequate.

County Revenue Commissioners. This body was the same in membership and function as it had been in 1896. It was required to examine and audit reports, records and "settlements," and call attention of the County Court to neglect of duty or violations of law by county officials.

State Revenue Agents. These Agents were reduced from five, to three, between 1896 and 1907. They were still appointed by the State Comptroller, but their terms were reduced from four to two years, and their compensation had been reduced to \$2,500 or 15 per cent of collections, whichever was less, plus allowed expenses. The Agents might employ attorneys to assist them, but this cost was to be taken from the 15 per cent allowed as commission.

The Revenue Agents were now authorized to examine the accounts of the State's institutions and report annually. Their discretion in the matter of instituting suits against delinquent officials, as well as against certain classes of taxpayers, was broadened by the law of 1907. Collections of the Agents were paid directly to the Trustee or County Court Clerk, and the latter reported to the State Comptroller, who then compensated the Agents. Previously the Agents had deducted their commissions in advance from collections.

While these Agents did not collect delinquent local property taxes, they were authorized to proceed against railroads, street car and inter-urban companies, telephone and telegraph companies, and others paying directly to the Comptroller (if delinquent). Thus the functions and authority of the State Revenue Agents were enlarged in 1907, as compared to 1896, though their compensation was apparently diminished and limited.

Payments and "Settlements." Under the law of 1907, County Trustees were required to report and make payment monthly to the State Comptroller, the County Judge, and municipal officials. (It will be recalled that the Trustee collected certain taxes for municipalities; and procedure in collecting delinquent municipal taxes of this kind was the same as for county and State taxes—no separate tax sale was held.) By the 1st Monday of each year, the Trustee was required to make a sworn statement of the previous year's taxes collected by him for State, county and municipalities, together with a full statement of disbursements, and publish this report in a county newspaper, or commissions might be lost if he failed to publish such reports. Monthly reports were spread on the minutes of the County Court.

At the July session of the County Court, the Trustee was required to submit a list of insolvent and delinquent taxpayers, as well as call attention to errors (presumably of a clerical nature). He was also required to submit affidavit that he had gone in person (or by deputy) to the home of insolvent and delinquent taxpayers to seek out property which might be sold for taxes, and that in the case of insolvents, no such property or effects were found.

Upon examination of the above items, the County Court was then to allow such of these as appeared correct—"and no more." The allowed list was then sent by the County Court Clerk to the State Comptroller, the County Judge, and municipal authorities, who used it in allowing "credits" to the Trustee when "settlement" was made. The Court was required not merely to accept the Trustee's word in these matters, but to call witnesses. Delinquent poll taxes were also included in such "credits," as well as polls levied against proven insolvents.

Heavy fines, and forfeiture of office, were imposed upon all collectors who failed to pay over their collections to the proper persons as required by law. Suits might be brought by the Comptroller or County Judge for State and county funds respectively. Any taxpayer in the county might also bring a suit if a written request to the Judge, asking him to bring suit, brought no results.

The compensation of the Trustee was greater in 1907 than it had been under previous laws. Now he received six per cent on the first \$10,000 collected, held and paid over to the proper receiving officers; four percent on the next \$10,000; and two per cent on sums in excess of \$20,000.00. One per cent was given him on the funds turned over to him (as Treasurer of the county) by other amounts collected under the State's 15c *ad valorem* school officers as fines, taxes, fees and other receipts, and on tax (allocated to the county).

Chapter VII

BREAKS IN THE DIKE: 1907-1917

Taxes and Tax Rates, 1907-1917.

The taxes imposed in 1907 were not materially different in kind or rates from those which had been imposed in 1896, and the changes occurring between 1907 and 1917 were not drastic. The State's *ad valorem* rate of 35c, set in 1899, remained in effect for seventeen years, until 1917, when it was raised to 50c. The *ad valorem* levy on assessments of real estate and personalty, exclusive of public utilities centrally assessed, was \$1,417,417.26 for 1907, and \$1,979,664.74 for 1917. Privilege taxes collected by the County Court Clerks (not including those paid directly to the State Comptroller) produced \$657,639.19 in 1907, compared to \$560,565.48 in 1917. Total receipts were \$3,617,169.49 in 1907 and were \$4,939,555.66 in 1916 (with the same rate as in 1907), rising to \$7,938,355.38 in 1917 when the rate was 50c. Total disbursements were \$3,617,169.49 in 1907, but had risen to \$7,938,355.38 in 1917, an increase of more than 100%.¹

In addition to the 35% regular *ad valorem* levy, the 15c school levy, imposed by the State but retained in the counties, was in effect in 1907. Counties were authorized to levy a rate of not more than 30c, exclusive of road, school and debt-service levies.

As during the previous periods, the counties and municipalities were allowed to impose privilege taxes and poll taxes at rates not exceeding the State rate. Chapter 541 of the *Acts of 1907* lists eighty-one privilege taxes payable to the County Court Clerk, compared to seventy-nine in 1896. Nine other privilege taxes were payable directly to the State Comptroller, and this list included Storage and Warehouse Companies, Trading Stamp Companies, and Merchants Issuing Trading Stamps, which had not been included in 1896.

The appearance of the "automobile age" was recognized in the privilege taxes imposed in 1907, by a tax on garage and dealers, of \$10 to \$40 per year (depending upon the population of the county), and by a tax of \$5 per auto, per year, if used for hire. The "soda fountain" was also recognized now by the revenue system through a low flat-rate tax, and other new industries (as compared to 1896) appearing in the privilege-tax list included laundries, pressing

¹Data in this paragraph taken or computed from *Comptrollers' Reports*.

parlors, advertising companies, check rooms, vitascopes, movies and magic lanterns, street lighting companies, plumbers and gas fitters. The tax of \$1 per \$1,000 of capital stock and surplus of banks, which had been imposed in 1896, was not included in 1907.

The tax on brewers was 250 per cent higher in 1907 than it had been twenty years before, and the tax on whiskey distillers had been doubled (for the top bracket). The privilege tax on wholesale liquor dealers had increased from \$200 to \$500 and the tax on retail liquor merchants had increased the same. The increasing tax burden on beer and liquor interests reflected the increasing sentiment of the state toward legal prohibition. A "local option" law was passed in 1907 which allowed each municipality to establish prohibition, and by 1908, only four cities of the state were legally "wet." Manufacture of liquors was forbidden in Tennessee in 1909, and state-wide prohibition of the intra-state liquor traffic went into effect on July 1, 1913.

Since the privilege taxes in 1907 were based almost exclusively upon the population of county, town or taxing district in which the taxed activity was located, so far as graduation of rates was concerned, the system was probably more regressive in 1907 than ever before. This statement applies chiefly to privilege taxes collected by the County Court Clerks, however.

As for privilege taxes and fees paid directly to an official in the capital—usually the Comptroller—, the bases of taxation were varied. Some companies were taxed a flat sum annually. Others were taxed on the basis of mileage, such as express companies and sleeping car companies. The privilege tax on telephone and telegraph companies was less than it had been in 1896, presumably on the grounds that they were taxed more thoroughly *ad valorem* by the Utilities Commission. Telephone companies paid a privilege tax now based both upon the number of battery-boxes and the population of the county. The tax on railroads not paying *ad valorem* was now \$120.00 per mile, though it could not apply to railroads with privilege-tax charter exemptions.

The new tax on trading stamp companies and on merchants issuing trading stamps was \$500.00 per year for each county in which companies did business (in the form of selling or giving away trading stamps), plus \$250.00 on every person or firm dealing in merchandise by the use of such stamps. Here was another example of the

non-fiscal use of the taxing power to prevent an undesired activity.

Foreign insurance companies continued to pay two and one-half per cent on gross premiums originating in the state. Domestic companies were now taxed similarly to banks, with shares being taxed to stockholders as personalty, though they were assessed at the *situs* of the main office and were payable out of the earnings of the company by its officials. Insurance agents were required to pay fees directly to the State Insurance Commissioner.

Non-recurrent "filing fees" of one-tenth of one per cent of capital stock were required in 1907, as in 1896, of both domestic corporations securing charters or increasing their authorized capital, and of foreign corporations when "qualifying" to do business in the state. These fees were payable to the Secretary of State.

As in 1896, building and loan associations were required to pay a privilege tax directly to the State Treasurer, the rates of which were based upon paid-in capital. This was *in lieu* of all other State taxes.

Of the privilege taxes collected in 1907 by the County Court Clerks, the tax on liquor dealers produced the largest revenues (\$322,846.50), while the "*ad valorem*-privilege" tax on merchants accounted for the second-largest amount (\$147,527.40). The Inheritance Tax, replacing the Real Estate Transfer Tax as the third-largest producer, accounted for \$111,927.95 for the biennium 1907-1908, or an average of more than \$60,000.00 *per annum*.

Railroad companies paid \$514,024.24 as *ad valorem* taxes for the biennium 1907-1908, though no railroad privilege taxes were received after 1902. Insurance companies paid \$500,850.52 during 1907-1908, and insurance agents paid \$24,373.02 during this biennium, and \$60,000.00 more was received as "filing fees."

Gross receipts from the State Penitentiary and Mines were \$1,056,481.62 for the biennium 1907-1908, while expenditures on these correctional institutions were \$772,416.74, thus producing a "net profit" of \$284,064.88. Such a "profit" continued to be realized throughout this period, from 1907 to 1917.

Principal Trends, 1907-1919.

The decade preceding 1917 produced two major developments in the financial history of the State. First, there appeared a new policy of deliberate expansion of State functions, as well as a more intensive development of existing activities. New functions had previously been undertaken, it is true, but always before there had been a spirit of apology and hesitancy, and the attitude that such expansion was a necessary evil. Now, however, more emphasis was placed upon the desirability of new or larger State services, with less being said about the evils of heavier taxes.

Governor Malcolm R. Patterson, in 1907, epitomized the new spirit more strikingly than any other chief executive of the period, though to some extent the three previous Governors, McMillin, Frazier, and Cox, had shown the same attitude, at least with respect to educational needs. In his *Message* of January twenty-third, 1907, Governor Patterson called for "new policies befitting the dignity of a great State and commensurate with the needs and expectations of the people. The old order of things has passed away."² He then called for increases in the salaries of judges, renovation and improvement of the Capitol, new State office buildings, a residence for the Governor, larger educational expenditures, increased appropriations for the State institutions of higher learning, creation of a State Banking Department, wider scope for the State Board of Health, improvement in the penal and reformatory system, and appropriations for conservation of forests, game and fish. He asserted that in view of the relatively low rates of interest much of the bonded debt carried, and the distance of the maturity date, too much was going into the Sinking Fund which should be spent on current needs.

The second main financial development came in 1910, when the revenues began to lag behind expenditures, resulting in the creation of an increasing short-term debt. Assessments had shown an increase of some \$160,000,000.00 between 1907 and 1917, or nearly 35 per cent, with every class of property showing considerable growth in value. Since the rate of taxation (*ad valorem*) remained the same, collections from the general property tax increased also by 35 per cent. Privilege taxes, fees and special receipts also showed a large increase. For the biennium 1906-1908, total receipts (exclusive of borrowing) were \$7,266,341.77,

²*Senate Journal*, 1907, page 109.

while for the biennium 1916-1918, they were \$12,812,534.35, an increase of nearly 80 per cent.

Nevertheless, the "spirit of expansion" pushed expenditures upward even more rapidly than the revenues increased, and deficits appeared in 1910 which were to continue for more than a decade. Bitter partisan struggles appeared over the issue of "prohibition," the dominant Democratic Party split into "wets" and "drys," and a Republican Governor, Ben W. Hopper, held office for four years, from 1909 to 1913. These four years were among the most tumultuous since the days of Reconstruction, and fiscal matters were largely neglected or even deliberately misused for partisan purposes. Few proposals of the Republican Governor were given adequate hearing by the Democratic Legislature, and such practices as filibustering, the breaking of quorums by large numbers of members leaving the state, and refusal to receive the Governor's messages, were not uncommon.

Even if political controversies had not existed, however, financial difficulties would have been inevitable. Tennessee was being transformed from a state dominantly rural to a state with increasing industrial activities and urban life. Inescapably, new needs were appearing, and neglected matters, such as education, conservation, public health, and inspection services, were urgently pressing for solution. To meet these demands, the State continued to rely upon the general property tax, which had consistently failed to reach the newer forms of wealth, and hence bore with increasing weight upon farm lands and other real estate.

In 1917, the *ad valorem* rate was raised from 35c to 50c. Several Governors of this period had demonstrated that the cost of government in Tennessee was lower, on a *per capita* basis, than that of most of the other states, including the Southern states. Governor Rye noted that Tennessee's *per capita* cost for State government was only \$1.88, the lowest of all Southern states except North Carolina. This was true, but so inequitable was the system of taxation that overall figures failed to reveal the situation fully. In point of fact a large amount of taxes was being paid by those who were least able to pay, while those most able to pay were virtually escaping taxation altogether.

Proposals for increasing revenue took a variety of forms. Better assessment of property, especially realty, continued to be urged, culminating in the "Sliding Scale Assessment Plan" of 1919, which will be noted in the next chapter. It

was proposed that a State Tax Commission be created, with power to supervise local assessment practices, and to assess more corporate properties directly. In 1915, an income tax on the interest from stocks, bonds, notes, mortgages, etc., to carry a rate of 10 per cent was suggested; this would have been imposed under *Article II, Section 28* of the Constitution, which gave the Legislature the right to "levy a tax upon incomes derived from stocks and bonds that are not taxed *ad valorem*." Obviously, the new tax would have required a broad construction of the term "stocks and bonds" in order to include short-term debt. It was also proposed in 1915 that a registration tax of 1/10 of 1 per cent on all financial instruments be levied.

Along with the suggestions for increasing the revenue there were also suggestions for reducing expenditures. Governor Rye demanded that the "rotten, iniquitous, corrupting fee system," under which some county officials were said to receive \$40,000 income per year, be eliminated.³ Co-ordinated operation of the State's various institutions, with more central purchasing, was also proposed.

Although the major changes in the State's revenue system were not to occur until a later period (discussed in the next chapter), several significant developments did take place between 1907 and 1917.

Direct Inheritance Tax, 1909. Chapter 479 of the *Public Acts of 1909* broadened the inheritance tax to include direct heirs. Under this law, the first \$5,000 of a direct inheritance was exempted, the next \$15,000.00 was taxed 1 per cent, and additional amounts were taxed 1¼ per cent. Collateral inheritance tax rates continued as before. In 1915, the exemption on direct inheritance was raised to \$10,000.00 with the rate now placed at 1 per cent on the first \$10,000.00 of taxable inheritance, and 1¼ per cent on amounts in excess of this. Under both of the above laws, inheritances received by charitable, scientific and religious institutions were exempted from the tax. As a result of these changes, collections increased more than 200 per cent during the biennium 1910-1912, as compared to the biennium 1908-1910, and nearly 400 per cent during the biennium 1912-1914.

Prohibition Law of 1909. Chapter 10, *Acts of 1909*, moved toward statewide prohibition by forbidding the manufacture of vinous, spirituous or malt liquors in the state for sale. It was not unlawful to transport liquor into the state

³Message of January 3, 1917, *Senate Journal*, p. 30.

until 1913, however, when, by Chapter 1 of *Public Acts of 1913* (Extra Session) it was made unlawful to transport liquor of more than $\frac{1}{2}$ of 1 per cent alcoholic content into or within the state. Railroads and express companies were required to co-operate in enforcement. Under this law, however, doctors, dentists and veterinarians were allowed to dispense liquor under prescription (apparently for both man and beast), and liquor still might be brought into the state for such purposes. The law of 1909 had eliminated tax receipts from distillers, brewers and wine-makers, and the law of 1913 terminated receipts from the dealers. Since the dealers contributed the largest single amount in the local privilege-tax group (as noted previously in this chapter), considerable revenue was lost to the State just at a time when current deficits were beginning to accumulate.

State Auditor, 1913. Prior to 1913, the use of "Junketing Committees"—rather large groups of legislators—had been the traditional method of investigating and "auditing" the various institutions operated by the State. It appears that generally these committees merely made cursory visits and examinations, enjoying generous expense accounts for performing very little work of real value. Their reports were usually models of generalized and non-factual material.

Governors and Comptrollers had for years called for better methods of controlling the State's institutions. Finally, by Chapter 2 of the *Public Acts of 1913*, a State Auditor was created, largely for the purpose of examining the accounts of such institutions. However, other exacting duties were also required, since it was unfortunately the custom to burden most officials with duties so numerous that some were sure to be neglected. The Auditor was made appointive by the Governor for a term of two years, with a salary of \$3,000.00. He was instructed by this new law to audit, at least once per year, all State offices as well as all State institutions. He was to be aided by one Assistant Auditor and a stenographer, and was granted the usual expense account. A bond of \$20,000.00 was required. The Auditor was to report to the Governor annually by June 30th.

Although the Auditor was obviously charged with more duties than the size of his staff justified, Governor Hooper could nevertheless report in 1915 that "in less than two years this department has paid for itself many times over."⁴

Assessment of Hydro-electric Companies. Central assessment of these companies by the Railroad Commission was

⁴Message of January 6, 1915, *Senate Journal*, p. 23.

authorized by Chapter 1, *Acts of 1915*. Assessment was by the process which by now had largely become standardized for valuation of public utilities. Schedules were required by April 1st of every other year, giving full information on the properties and finances of the companies. Property was divided into distributable and localized, the former class including lines, poles, stations, etc., while the localized class included lands and buildings. Distributable assessments were apportioned on the basis of line-mileage to counties and municipalities. Collection procedure was the same as for railroads.

General Education Bill of 1909. The year 1909 was a high-water mark in the educational history of the State. Three new State Normal Colleges for the training of White students, and one Normal for the training of Negro students were established, and Chapter 264 of the *Acts of 1909* provided that 25% of the gross revenues of the State (except receipts from the Penitentiary) should be appropriated to general education. This was to be in addition to the interest on the "educational fund." Most of the funds were allocated to the elementary and secondary schools, but substantial amounts were also provided for the State University, the Normal Colleges, school libraries, and a fund to lengthen school terms in the poorer counties.

In 1913, the percentage of gross revenues (excluding receipts from the Penitentiary) appropriated to educational use was increased from 25% to 33½%. The following table shows the results of the 1909 and 1913 acts by giving the amounts spent under the 33½% allocation in 1914-1916: spent under the 25% allocation in 1910-1912, and the amounts spent under the 33½% allocation in 1914-1916:

DISBURSEMENTS FOR EDUCATIONAL PURPOSES¹

	1906-1908	1910-1912	1914-1916
Interest, School Fund ²	\$ 999,358.53	\$ 265,295.03	\$ 271,711.11
General Education Fund	.....	2,123,170.42	2,451,979.00
University of Tennessee ³	100,000.00	.....	.....
Totals	\$1,099,358.53	\$2,388,465.45	\$2,722,690.11

The above table does not include a grant of \$250,000.00 made to Peabody Normal College during the biennium 1908-1910, nor amounts spent for salary and expenses of the

¹Data taken from Comptrollers' Reports. Biennium ends December 19.

²Amounts expended under the "Tollett Law of 1905" and the "Chesnut Law of 1907" are included in "Interest, School Fund" for the biennium 1906-1908.

³Allocations to the University of Tennessee (7% of the total) are included in the "School Appropriations" for 1910-1912 and 1914-1916.

Superintendent of Public Instruction, and other small "educational expenditures."

It will be seen from the above table that more than twice as much was expended under the new educational laws than before. The laws specifically recognized greater obligations toward education, and this was particularly true with respect to higher education.

Budget Act of 1917. One of the most significant changes in fiscal procedure, during this period, resulted from the passage of an act⁵ in 1917 to set up a general budgetary system for the State. The Budget Commission created by the act was to be composed of five members—the Governor (as chairman), the Comptroller, the Treasurer, the Secretary of State, and the State Auditor.

The creation of a budgetary system had been previously recommended by several Governors. In 1915, Governor Hooper told the Legislature: "No better thing could be done by the present Legislature than the passage of a law providing for a budget system for the State."⁶ He suggested that such a budget should make a "close estimate in advance" of both expenditures and receipts.

Governor Rye, in 1916, recommended, among other reforms, that a Budget Commission be created which would secure estimates of expenses from departments and institutions. These should be revised and presented to the Legislature at the beginning of its regular biennial session.

A commission created by Governor Rye to study tax and administrative needs, in 1915, made proposals (in addition to the above) for reforming the assessment system and setting up a State Tax Commission, and recommended the imposition of the ten per cent income tax previously mentioned in this chapter.

The same bill which created the Budget Commission in 1917 provided that the fiscal year, which, since 1874, had ended on December 19th should now run from July 1st to June 30th, beginning in 1919.

Under the new Budget Law, the Commission made field surveys between October 1st and December 1st of even-numbered years, securing estimates of proposed expenditures and anticipated receipts for the biennial period to begin the following July 1st from all departments, commissions, boards and offices (but excluding educational and

⁵Chapter 139, *Public Acts of 1917*.

⁶*Message of January 6, 1915, Senate Journal, page 31.*

institutional). Included with the estimates were also reports on actual expenditures and receipts during the preceding biennium, classified according to requirements of the Budget Commission.

Also by December 1st of even-numbered years, the Comptroller supplied the Commission with statements showing balances of all departments, etc, included in the budget estimate. This report also showed expenditures and receipts of such offices during each of the two previous fiscal years (as well as average monthly expenditures and receipts during the same period).

Prior to January 1st, the Budget Commission completed a tentative budget, with summaries and comparisons for all departments and offices (with the exceptions noted), and showing proposed expenditures and receipts, giving explanations for changes, and presenting the criticisms and proposals of the Commission. Public officials might be heard by the Commission, and the Governor-elect and members of the incoming Legislature were invited to sit in on the budget hearings.

Copies of the proposed budget were given to members of the Legislature by January 15th (the regular session beginning on the first Monday in January). The Governor's term normally began on January 15th, and after his presentation of the proposed budget a joint Legislative Committee on Appropriations was set up to consider it. The Committee was expected to study the budget in detail, hold hearings, and bring back specific recommendations to the two Houses. Bills carrying appropriations were required to be itemized according to the classification set up by the Budget Commission.

The tentative budget included proposed "emergency appropriations" (to eliminate the previous practice of allowing each department and commission to spend in excess of allowance and then call for deficiency appropriations) and the final budget usually included such appropriations. Under the new law, no money might be drawn from the Treasury in excess of definite appropriations to specific funds, nor amounts transferred from one fund to another. Additional expenditures from the "emergency appropriation fund" required the permission of the Budget Commission, acting in response to a detailed written request from the head of the office involved. Balances in funds at the end of the biennium were available only for one additional month to pay liabilities previously accrued; otherwise, such

amounts reverted to the general Treasury. Appropriations might not be drawn upon and spent in advance of specified time, except by special permission of the Budget Commission.

Each State office was required to keep records as prescribed by the Budget Commission, and to reconcile accounts with the office of the Comptroller each month. All offices receiving income were required to pay monthly into the Treasury, filing statements with the State Auditor to show the sums paid.

The Budget Commission was authorized to examine any office (included in the budget) at any time for the purpose of reducing unnecessary expenses, improving procedure, or checking-up on the accounts; and it might hear witnesses and audit all records for such purposes.

Despite certain defects in the Budget Law of 1917, it represented a long forward step in the modernization of the State's clumsy and inefficient financial system. Further changes were to stem from this beginning which, during the next twenty-five years, were to result in the adoption of one of the most efficient systems of administration to be found in any Southern state.

State Highway Commission and Automobile Registration Law. By Chapter 100 of the *Public Acts of 1915*, a permanent State Highway Department was set up, composed of six members. Three of these were the Governor, the State Geologist, and the Dean of the Engineering School of the University of Tennessee; and the other three were appointed on a bi-partisan basis by the Governor. A full-time Secretary, with offices in the capital, was provided.

Under the law setting up this Commission, receipts from auto registration fees and from penalties for violation of highway laws were earmarked for the use of the Commission. Ten per cent of the registration fees might be used for paying the Commission's expenses, while the rest went for highway purposes.

Interest in State highways had been growing for more than a decade prior to 1915. The first act to register and number vehicles "hereinafter termed 'automobiles,'" was passed in 1905.⁷ This act required the owner to register his car with the Secretary of State, giving the motive power and other information, and paying a fee of \$2.00, in

⁷*Acts of 1905*, Chapter 173.

return for which he received a certificate assigning his car a certain number. The owner then registered his certificate with the County Court Clerk, paying a fee of \$1.00. He was required to make his own license-number plate, "with arabic numerals of not less than three inches in height, and one and one-half inches in width—both front and rear conspicuously—on durable and substantial plate of not less than four by seven inches."⁸ The same charge was made for transfer of ownership. Speed limit was set at 20 miles per hour on the open road.

Governor Patterson, in 1907, called for a "Good Roads Commission" of three members to make investigation regarding a State highway system. This was not done until 1909, however, due to the absorption of the Legislature in the "prohibition issue," but Chapter 561 of the *Public Acts of 1909* created a temporary State Highway Commission as a fact-finding body. The report of this Commission in 1911 urged the Legislature to create a permanent Highway Commission, and recommended that a State highway running from Bristol to Memphis, with appropriate feeder roads, be constructed at a cost of approximately \$2,400,000.00. The Commission estimated that 4,800 additional miles of intra-county roads were needed, to cost approximately \$2,000.00 per mile. The Commission also suggested that counties be authorized to issue highway bonds under a general enabling act.

Governor Patterson approved the Commission's proposals in full, and the next Governor, Ben W. Hooper, also favored a Bristol-to-Memphis highway, but suggested "popular contributions" as to the method of financing it. However, Governor Hooper proposed the creation of a permanent Highway Commission in 1913, recommended authorization of county highway bond-issues, and favored use of auto registration fees for the use of the Commission. Governor Rye proposed in 1915 that a Highway Department be set up which would be able to take advantage of the Federal-aid funds.

*The Registration Act of 1915.*⁹ This act provided that automobile owners should register with the Secretary of State, giving name and address, the make and horse-power of the car, and paying the following fees: If a capacity of fewer than four passengers, \$5.00; if more than four passengers, \$7.50. Owners of motorcycles were required to

⁸Acts of 1905, Chapter 173.

⁹Acts of 1915, Chapter 8.

pay \$2.50. The certificate supplied the owner by the Secretary of State was then registered, as previously, with the County Court Clerk, and a fee of \$1.00 paid. Transfer of ownership required the regular payment to the Secretary of State, plus a \$0.50 fee to the County Court Clerk. Receipts of the Secretary of State from registration (less collection expenses) were paid to the Highway Department.

Registration Act of 1917. This law ¹⁰ provided that the County Court Clerk should act as agent for the Highway Department in collecting vehicle registration fees. Trucks were now taxed on the basis of horse-power, plus an additional sum based upon tonnage or weight. Automobiles and motorcycles were charged \$0.50 per horse-power; and electrics, \$12.50, plus \$5.00 per ton of carrying-capacity. Vehicles for hire paid the horse-power fee, plus \$2.00 for each passenger that could be carried. Tractors were charged \$25.00 if they used the highways, and trailers from \$7.50 to \$25.00, on the basis of carrying-capacity. A fee of \$1.00 was now charged for transfer of ownership. All fees were due on or before January 1st. Chapter 16 of the *Acts of 1917* authorized the Highway Department to enter into contract with the Federal government to secure "matched funds" under the bill passed by Congress in 1916. Highway funds were expended upon issuance of vouchers drawn upon the Highway Fund (held by the State Treasurer) by the Secretary and Treasurer of the Department. The Comptroller did not issue warrants-payable for such disbursements.

State Highway Ad Valorem Tax, 1917. Chapter 74 of the *Public Acts of 1917* levied a State tax of 10c per \$100.00 on all property, to be used by the Highway Department in order to permit matching of all available Federal funds, as well as to give aid for county roads.

Amounts spent by the Highway Department will be noted in Chapter 14 (TRENDS IN EXPENDITURES).

Board of Control, 1915. A State Board of Charities had been created in 1895 to supervise the State's charitable institutions, but no funds had been appropriated for compensation or expenses, and, consequently, the body did not function. In 1911, Governor Hooper called for enough funds to activate this Board. He repeated the recommendation in 1913.

¹⁰*Acts of 1917, Chapter 74.*

Governor Rye suggested in 1915 that a Board of Control be created not only to supervise charitable institutions of the State, but also to include supervision of the Penitentiary and other reformatory institutions. He proposed that such a Board should have authority to prescribe uniform systems of accounting and reporting for the institutions, should operate a system of central purchasing of institutional supplies, and should seek to develop a better method of utilizing institution-made goods.

This Board was created in 1915. In addition to its other powers, the Board was given authority to make contracts of a limited character leasing convicts to private companies for work outside the prisons. The tendency at this time was towards termination of in-prison contracts and of the sale of prison-made goods in competition with other goods. Both Hooper (a Republican) and Rye (a Democrat) criticised the sales of prison-made goods on the open market. Wages paid to prisoners for in-prison work in the shops at this time were from \$0.50 to \$1.10 per day.

Chapter VIII

THE REVENUE REVOLUTION, (1917-1925)

The years 1917 to 1925 produced more changes in administration and in revenue sources, than any other previous period of the State's history. Despite the inflexible Constitution and the lethargy of the citizenry, something approaching a "fiscal revolution" took place in the second and third decades of the Twentieth Century. The pressures and maladjustments which helped bring about the alterations have been considered in the previous chapter; and to the list of causal factors should be added the personalities of certain unusually able leaders of the period, such as Governor Rye (1915-1919), and Governor Austin Peay (1923-1927).

We have previously mentioned the appointment of a State Auditor in 1913, the creation of a Highway Department in 1915, and the passage of the Budget Law in 1917. These were the opening wedges through which were to pour numerous administrative and revenue changes.

Governor Rye made a searching analysis of the financial plight in which the State found itself in 1915, when he first took office, and his *Messages* of that year contained both diagnoses and proposals for improvement. The investigations of the Tax Commission, mentioned in the previous chapter, produced numerous recommendations for increasing the efficiency of administrative departments and enlarging the sources of revenue. The Commission pointed out the evils of the general property-tax clause of the Constitution and recommended a Constitutional amendment to authorize tax classification; it revealed further evidences of inequitable assessments, "tax dodging," and the virtual breakdown of the taxation of intangible personalty; it proposed establishment of a permanent Tax Commission to act as the core of a new and more efficient system of revenue administration, and to have supervision of local assessors, as well as to equalize inter-county assessments; it suggested a wider use of the *in lieu* income tax, coupled with a registration fee on financial paper; it proposed to strengthen titles acquired at tax sales; and it recommended installation of improved and uniform systems of accounting. The Commission drafted bills for the Legislature, whereby their proposals might be passed into law; but despite the forceful *Messages* of Governor Rye, urging their adoption, little was done during his administrations to put them into effect. A tax of 15c per \$100.00 on mortgage registrations

was passed in 1917, but it was invalidated by the State Supreme Court in 1919. A law was also passed in 1917 to supplement the kerosene inspection law by providing for the inspection of gasoline.

Governor Roberts, who succeeded Rye in 1919, also favored most of the reforms which had been suggested by the Tax Commission in 1915, although he was opposed to the creation of a State Tax Commission with powers to supervise local assessors, and he favored the election of the State Equalization Board by the voters. Roberts, like Rye, favored adoption of the "Sliding Scale Assessment Plan" (to be described), and he called for changes in the inheritance tax law, and for the conferring of powers upon the Railroad Commission which would enable it to assess additional properties (of "quasi-public corporations") and more effectively to equalize other properties. "Our taxing system is among the weakest and worst of any state in the Union," Roberts declared in his inaugural *Message*.¹

The Sixty-first General Assembly, in 1919, responded to most of the Governor's recommendations by passing them into law.

Equalization and Assessment. Chapter 1 of the *Acts of 1919* clothed the Railroad Commission with powers to act as a State Board of Equalization for the purpose of equalizing general property assessments throughout the State. It may be recalled that the State Board of Assessors, which the new Board now succeeded, had possessed only powers of review of individual properties. The Railroad Commission continued to make assessments of railroad, telegraph, telephone, inter-urban, street railroad and (beginning in 1915) hydro-electric companies; and review of these assessments was still made by the State Board of Assessors (composed of the Governor, Comptroller and State Treasurer).

Chapter II of the *Acts of 1919* broadened the assessment powers of the Railroad Commission to include sleeping car, freight car, pipe line, gas and electric companies. The Act also authorized for the first time the assessment of certain intangible values of quasi-public corporations.

Thus, under the new laws, the Railroad Commission originally-assessed public utilities, and reviewed and equalized assessments coming up from the County Assessors; while the State Board of Assessors reviewed and equalized

¹*Senate Journal*, 1919, p. 306.

public utility valuations coming up to them from the Railroad Commission.

Sliding Scale Assessment Act. Chapter II of the *Acts of 1919* also provided for the famous "Sliding Scale Assessment Plan." This was an attempt to lure personalty (especially intangibles) from hiding by reducing the State *ad valorem* rate as the total assessment of property in the state should increase. For example, it was provided that a State rate of 65c should be levied upon a total assessment of \$600,000,000.00, that the rate should be reduced to 52c when total assessments reached \$1,000,000,000.00, reduced to 35c when assessments reached \$2,000,000,000.00, and reduced correspondingly for further increases in total assessments. It may be noted, however, that the reduction in rates was not exactly proportional to increases in assessments, since more revenue was needed at that time to eliminate recurring operating deficits.

County Highway Bond Act. An act had been passed in 1913 which permitted counties to issue bonds for road-building purposes. This law was amended by Chapter 114 of the *Acts of 1919* to require that additional bonds issued by the counties should first be approved by the voters, that they should bear no more than six per cent interest, and that the amortization and interest charges on total bond issues should not require a tax rate of more than \$1.00 per \$100.00 of assessments.

Income Tax Amendment. Senate Joint Resolution Bill 56, passed by the General Assembly in 1919, proposed an amendment to the State Constitution which would give the Legislature the power to levy taxes upon incomes from whatever source derived. The amendment was not adopted.

The effects of the new sliding-scale assessment law were remarkable, but they were hardly the results desired by the sponsors of the plan. Total assessments increased by approximately two hundred and fifty per cent in one year; but the increase in personalty, while considerable, fell far short of the main goal—which was the listing of all or a great part of intangible and other personalty. Furthermore, while State revenues increased, they still failed to provide an amount sufficient to balance the budget; and, in fact, the deficit was greater in 1923, when the sliding-scale law was repealed, than it had been in 1919, when the law was adopted. The following table reveals results of the law:

ASSESSED VALUATION OF TAXABLE PROPERTY
(SELECTED DATES)¹

Date	Total	Land in Acres	Town Lots	Personalty
1918	\$ 604,086,186.00	\$239,816,503.00	\$267,753,460.00	\$ 96,516,183.00
1919	607,535,963.00	238,122,979.00	268,778,712.00	100,634,274.00
1920	1,700,781,105.00	861,637,518.00	654,830,708.00	184,312,879.00
1921	1,454,700,148.00	712,752,437.00	575,347,663.00	166,600,048.00
1925	1,420,923,784.00	606,416,719.00	651,063,357.00	163,443,708.00

It will be noted from the above table that the largest increase, both relatively and absolutely, was in the valuation of Land in Acres, the second increase was in Town Lots, and the smallest increase was in Personalty.

Annual revenue receipts from the State *ad valorem* tax cannot be precisely compared for this period because of the change in the State's fiscal year in 1919, but by applying the tax rate to the total assessments for the years given in the preceding table, we secure the following approximate results:

EFFECTS OF SLIDING-SCALE ASSESSMENT PLAN, 1918-21

Date	State Rate	<i>Ad Valorem</i> Levy
1918	\$0.50	\$3,020,400.00
1919	.55	3,338,500.00
1920	.26	4,442,000.00
1921	.35	5,089,000.00

Clearly, the "sliding-scale plan" failed to place more of the burden of property taxation upon personalty but, instead, increased the burden. This result was exactly opposite to the one desired by its authors.

Another effect of the plan was to increase county tax levies, since the State's assessment was also the county assessment, and county taxes were either not reduced as rapidly as the State rates, or were not reduced at all.

It will be noted that total assessments in 1925, two years after the repeal of the "sliding scale," were nearly as large as they had been during the operation of the plan.

Report of the Chief Statistician. The report of Chief Statistician A. V. Louthan, in 1921, termed by Governor Roberts "the most exhaustive as well as the ablest discussion of the subject of taxation yet presented to the Legislature and the people of Tennessee,"² emphasized the inequities resulting from lack of adequate equalization procedure. It presented evidence to show that total assessments

¹Excluding public utility properties centrally assessed. Data taken from *Comptrollers' Reports, 1918-1921*; from *Condensed Financial Statements, 1925*.

²Message of January 25, 1921, *Senate Journal*, p. 455.

of some counties were less than one-fourth those of other counties with similar area, population and real wealth, that large properties, both corporate and individual, were assessed at a much lower proportion of real value than small properties, and that some corporate properties were so far under-assessed that they almost escaped taxation entirely. For example, one corporation was assessed at \$260,000.00 in 1918 on properties shown to be worth \$4,000,000.00 (and so assessed) in 1920.³

Governor Roberts recommended in 1921 that the "sliding scale law" be amended in order to make assessment of personalty more complete, but he did not indicate how this should be accomplished. The Legislature responded by ordering another assessment of all properties in 1921 (instead of waiting until 1922) because of the collapse of farm prices, which had begun in the summer of 1920. As a result, total assessments were reduced by nearly \$350,000,000.00. The Legislature also moved in the direction of a fixed instead of sliding tax rate by providing a flat levy of 5c for the use of the University of Tennessee, by increasing the school levy from 5c to 8c, and by imposing a 1c levy for "fairs."

Just before leaving office in 1921, Governor Roberts recommended that a "corporate excise tax" be given consideration by the Legislature. He also called for budget systems for the counties, and for a tax limitation on county taxes. None of these proposals was enacted into law at that time.

Governor A. L. Taylor (1921-1923), a Republican who was swept into office by the "Back to Normalcy" trend, attacked the "sliding scale plan" during his campaign speeches and also in his first *Message* to the Legislature. He insisted that farm lands should not be taxed (or assessed) at as high rates as corporate properties, since farming "was not purely a profit thing." He also criticised the use of the Railroad Commission as an equalization board, and called for a separate State Tax Commission to relieve the Railroad Commission of all its duties except public utility assessments; and he would also have the Tax Commission act as "a Supreme Court in all matters of taxation."⁴ He favored reduction of the Railroad Commission from a three-man board to a one-man board, and urged the repeal of the back-tax laws.

³Report of the Chief Statistician, 1921, p. 47.

⁴Message of January 19, 1921, *Senate Journal*, p. 159.

The Legislature did not follow the Governor's suggestions very closely. It created a Superintendent of Taxation and a six-member, bi-partisan Board of Equalization. This Board assumed the Equalization functions of the Railroad Commission. However, review of public utility valuations made by the Railroad Commission was still entrusted to the State Board of Assessors (Governor, Comptroller and State Treasurer).

The "sliding scale plan" was completely repealed in 1923,⁵ and this ended the last determined effort to assess and tax all personalty under the general property tax. Thereafter, efforts were made to amend the Constitution in order to provide for a classified property tax, or to impose a limited or general income tax under the "privilege tax" clause. Governor Peay (1923-1927), while favoring these objectives, turned in the meantime to other sources of revenue, notably the gasoline tax, the corporate excise tax and the tobacco tax.

*Reorganization Act of 1923.*⁶ One of the most far-reaching administrative changes in the history of the State was effected in 1923, when the Administrative Reorganization Bill was approved, together with supplementary changes in the system of budgeting, assessment, and revenue collection.

The germ of the Reorganization Bill is to be found in the *Report* of the Rye Tax Commission, previously noted in this chapter; however, only changes in fiscal agencies were suggested by the Commission. Governor Taylor, a Republican, was the first Governor to suggest comprehensive reorganization: In 1921, he urged the Legislature "to proceed without further delay, and I so recommend, to reorganize our State government into about seven or eight separate departments. All branches of the State's business of a kindred nature should be placed in its legitimate department."⁷ He also repeated this recommendation two years later, in his last *Message*, saying: "We can never have systematic, efficient and economic government, in my opinion, until this is done."⁸

Governor Austin Peay, bringing the major party back to power in 1923 on a platform calling for a reduction of land taxes, a balanced budget, repeal of the "sliding scale," and other economy measures, took up the call for reorganization.

⁵Public Acts of 1923, Chapter 23.

⁶Chapter 7.

⁷Senate Journal, 1921, p. 522-523.

⁸Senate Journal, 1923, p. 13.

He noted the "headless and disjointed administration, functioning through thirty-seven boards and twenty-seven departments."⁹ The reorganization bill of the administration was presented to the Legislature in January, 1923, and was quickly passed.

*Provisions of the Reorganization Act of 1923.**

This act touched every phase and branch of the State government. Eight new Departments were created, each headed by a Commissioner, appointed by the Governor and removable at his pleasure. Forty-nine old bureaus, commissions and offices were abolished, and their functions placed under an appropriate new Department. A modest beginning was made toward the improvement of personnel by establishing a limited system of classification and uniform salary scales. Central purchasing procedures for both departments and institutions were broadened and improved.

Under the new Act, the Governor was given greatly increased powers, and became for the first time in fact, as well as in name, the executive and administrative head of the State, though his lack of a veto continued to hamper him. Previously, the Comptroller of the Treasury had been the head of the revenue system, insofar as it had a head; and it should be recalled that the Comptroller was almost completely independent of the Governor. Now a Commissioner of Finance and Taxation, subordinate to the Governor, exercised virtually all of the revenue functions which the Comptroller had performed, and many other functions in addition, which had previously been vested in various boards and commissions. The transfer was not complete however, and public utility taxes and numerous fees, for example, were not collected by the Department of Finance and Taxation.

Department of Finance and Taxation under the Reorganization Act. This Department was given three main functions, corresponding roughly to three divisions within the Department. These were: (1) Assessment and collection; (2) Preparation of accounts, budgets and reports; and (3) central purchasing for departments and institutions. Each division was headed by a Superintendent, who was selected by the Commissioner with the approval of the Governor.

⁹*Senate Journal*, 1923, p. 102.

**Public Acts of 1923*, ch. 7. Upheld by Supreme Court in *House vs. Creveling*, 250SW357.

The Department of Finance and Taxation was also authorized to determine the classes, grades and titles of employees in the various Departments, and to fix salary scales for the different classes. Thus this Department exercised the rudiments of "civil service" functions. Essentially, the State continued to operate under a complete "Spoils System" as usual, however, and the turnover was tremendous every time a new Governor, regardless of party, came into office.

Provisions were made for the Department (a) to make a partial pre-audit, since payrolls for all offices and departments required its certification before being submitted to the Comptroller, and it was further required that certification should not be given unless a "clear and unincumbered balance" was to the credit of the accounts involved, and (b) to make a complete post-audit of departmental, institutional, and county offices.

The powers of the former five-man Budget Commission were now lodged in the Division of Accounts and Budgets in the Department of Finance and Taxation. Control over the State Revenue Agents, formerly held by the Comptroller, was transferred to the Department. The office of State Auditor was abolished, and instead, three state auditors, to be appointed by the Commissioner of Finance and Taxation, and subject to his control, were provided. Also abolished was the Board of Control, which had exercised limited supervision over the State's various institutions, and its functions were given to the new Department. Control was also given to the Department of Finance and Taxation over public printing; and it was empowered to function as an emergency board to replace facilities and buildings destroyed by fire or other accidents.

Collection of the gasoline tax, the corporation excise tax, the auto registration fees, and the inheritance taxes was placed under the Division of Assessment and Collection.

The function of equalization was not located exclusively in the Department of Finance and Taxation. A new State Board of Equalization was created, composed of the Governor, Secretary of State, Treasurer, Commissioner of Finance and Taxation, and the Superintendent of the Division of Taxation (Assessment and Collection). This Board replaced the old State Board of Assessment in reviewing and equalizing public utility assessments originally made by the Railroad Commission; and it took over the functions of general equalization of county assessments,

formerly performed by the Railroad Commission. Thus the complicated and confused system which had previously existed was somewhat simplified: Now, the Railroad (or Public Utilities) Commission merely made original assessments of utility properties, and the new Board of Equalization reviewed all assessments and equalized at the State level.

Much more of importance could be said of the Reorganization Law of 1923, but the limitations of this study prevent further detail. The powers of the Governor over the revenue system were obviously much increased. The functions of the Comptroller, on the other hand, were much reduced in this respect, and he now performed very limited revenue duties. Chiefly, he was now a pre-auditor, issuing warrants payable upon the Treasury, and a compiler of over-all reports on receipts, disbursements and debt. The requirement that the Comptroller supply the Governor with information relative to preparation of the budget brought that office into closer correlation with the office of the Chief Executive.

While defects were soon to appear in the new system of administrative organization and procedure, leading to further modifications, yet when compared to the previous organization of the State government, the Administrative Reorganization Act of 1923 represented a tremendous step forward, in the direction of greater efficiency and economy.

Governor Peay's Financial Program. Austin Peay brought to the Governor's office social imagination, a thorough understanding of the difficult financial situation, and a definite program. His strongest sympathies were with the agricultural interests of the State, and his official documents reveal little interest in organized labor, while at times he was in definite conflict with the commercial, financial and industrial groups. Essentially, however, his policies transcended class-interests and were broadly public in character.

On the subject of taxation, Governor Peay declared: "My position has been that land cannot pay its present taxes. Our farmers must be relieved."¹⁰ He deplored the heavy debts which the counties had accumulated in unsuccessful attempts to build a system of highways. He proposed that counties should no longer be required to contribute to State roads, and in return for this relief the State Highway

¹⁰*Senate Journal*, 1923, page 104.

Department should receive the entire proceeds of the auto registration fees (which the counties were then sharing).

Gasoline Tax. In his first message in 1923, Peay proposed that a tax of 2c per gallon be imposed on gasoline, to be exclusively allocated to the Highway Department—"a fund to be used solely in the construction and maintenance of the Highway system of the State, and no part of said fund shall be used in any other department or for any other purpose whatever."¹¹ He favored repeal of the one-half mill *ad valorem* highway tax and the levy for State Fairs, and a reduction of \$1,000,000.00 in the State property-tax collections. It was believed that the gasoline tax would replace losses from repeal of the *ad valorem* highway tax.

Corporation Excise Tax, 1923. To replace the \$1,000,000.00 which would be lost by the reduction of the State *ad valorem* rate, Governor Peay recommended that a franchise or excise tax be levied on corporations, based upon their net earnings, the tax to be collected by the Department of Finance and Taxation.

The Governor also suggested, but without great enthusiasm, a moderate severance tax. He expressed approval of a moderate tax on personal incomes, and stated: "It is mooted if an income tax is constitutional in this State, but it will not be known until the question is tested."¹² If any of the taxes he proposed should be invalidated by the Courts, Peay suggested a convention to alter the Constitution. It may be noted that all of the above taxes were based upon the "privilege tax" clause of the Constitution.

Peay had pledged during his campaign that, if elected, he would not issue additional State bonds without popular approval, and he made strenuous efforts to maintain a "pay-as-you-go" policy. He asked for a plan which would guarantee complete audits of every county office each year. He called for more rigid enforcement of the Inheritance Tax Law, and he proposed that the Assessment Law of 1907 be amended in order to permit the assessment of notes, bonds, and other financial paper according to a capitalized percentage of its income.

By 1925, the annually-recurring deficits, which had haunted the State since 1910, were replaced by a small surplus, and sinking-fund payments on the debt were resumed after a lapse of nearly fifteen years.

¹¹*Senate Journal*, 1923, page 109.

¹²*Ibid.*, page 111.

Governor Peay was loud in his praise of the Reorganization Act of 1923 when he delivered his *Biennial Message* in 1925. "No state in this union has today an administration system which functions with less waste and such efficiency as ours," he declared.¹³ He attributed the Treasury surplus to "strict economy and business methods in the administration of the State government. It marks the abandonment of the loose and wasteful system theretofore prevailing with its inevitable train of small and evil politics."¹⁴

Governor Peay proposed expenditures for the 1925-1927 biennium amounting to \$2,500,000.00 in excess of the previous biennial expenditures, the amounts to be spent on improvements and new facilities for educational and charitable institutions, which were over-crowded and inadequate. He also proposed the immediate establishment of a system of State forests and parks.

Despite these increased expenditures, and despite the loss of approximately \$1,000,000.00 annually which resulted from reduction of the State *ad valorem* rate from 36c to 30c (in 1923), Peay nevertheless proposed a further reduction to 25c beginning in 1925. He still insisted, however, that he opposed additional bond issues, declaring that: "All the burglars in the land have never stolen as much money as has been wasted in this country through improvident bonds."¹⁵

To provide revenues to meet the increased expenditures, it was now proposed (January, 1925): (a) that the gasoline tax be increased from 2c to 3c, with the entire proceeds still to be used exclusively by the Highway Department, and (b) that a sales tax on manufactured tobacco be imposed which would produce approximately \$750,000.00 per year. Peay declared that the counties and cities should not impose additional gasoline taxes, but should leave this revenue source exclusively to the State. On the other hand, the State, by reducing its property tax, was turning this source more exclusively to the use of local government.

The Governor also proposed—since the gasoline and kerosene inspection fees were producing large "profits," and the Courts were questioning the constitutionality of such "fees"—that this source of revenue be protected by imposing an additional tax of one-half cent per gallon on gasoline, to be paid, however, only if inspection fees had not been paid. This suggestion was followed.

¹³*Senate Journal*, 1923, page 15.

¹⁴*Ibid.*

¹⁵*Senate Journal*, 1925, page 18.

The proposed "tobacco excise" met strenuous opposition from the manufacturing and mercantile interests, but was passed into law in 1925.¹⁶ Peay felt that this tax should be temporary, and should be repealed when the large capital outlays for highway construction could be reduced (thus releasing more of the receipts from the gasoline tax). Most of the proceeds of the new tobacco tax were allocated to the schools.

Peay believed that no borrowing would be necessary in the 1925-1927 biennium, despite the heavy outlays for highways, rural school buildings, and other institutional construction. However, he noted that the Legislature of 1925 had ignored some provisions of his proposed budget and had over-ridden his veto of certain "extravagances."

In fact, strong forces were gathering which were soon to cause abandonment of "pay-as-you-go" and bring about a rapid upward spiral in the State debt. Peay had strongly opposed the suggestion, which was widely heard in 1923, that the State borrow \$75,000,000.00 over a period of ten years for the purpose of constructing a complete network of State highways. The Democratic Platform of 1924 called for expenditures of \$10,000,000.00 per year on highways, to be financed by short-term (five-year) borrowing if current revenues should prove inadequate. In 1925, the Legislature authorized the borrowing of two and one-half millions during the succeeding biennium, and half of this amount was actually borrowed.

To the pressure of car-owners for better State roads was added the pressure of commercial bus and truck interests. In addition, banking investment companies, especially the amazing firm of Caldwell & Company of Nashville (the South's largest investment house in 1929) were said to be using their influence to promote large bond issues and heavier expenditures for highways, bridges, and institutional construction. "Pay-as-you-go" was actually abandoned by the Legislature in 1925, despite Peay's opposition; and by 1927, even the Governor expressed guarded approval of limited, short-term borrowing to finance capital outlays.

The Revenue Sources of the 1920's. The major changes in the revenue system resulting from the Reorganization Act of 1923 were at the "upper level," and relatively little was done to alter organization and procedure at the county level. The Assessment Law of 1907 was still the basis of the system.

¹⁶Public Acts of 1925, Chapter 2.

The State *ad valorem* rate, (according to Peay's recommendation) was reduced to 25c per \$100.00 in 1925, of which only 12c was for general purposes, with 5c allocated to the University, and 8c allocated to the schools. The counties were not allowed to levy more than a 25c rate for general purposes, but additional levies might be imposed for school, road and debt-service purposes.

By 1925, the number of "privilege taxes" had increased to 132, and this was 27 more than in 1917. Such taxes had yielded \$560,565.48 in 1917; in 1925 they produced \$1,038,139.34.¹⁷ The privilege taxes of 1925 included new levies on aeroplanes, and more taxes on automobile dealers and repair shops. Taxes on radio dealers and on Morris Plan banks had also appeared. The taxes on moving picture houses were by now based upon seating capacity and the size of the community. The 10c per \$100.00 registration tax (previously mentioned in this chapter) made its first appearance in 1925; the first \$10,000.00 were exempt however.

Except for the changes noted, privilege taxation in the 1920's did not show decided changes from that of the previous decade.¹⁸ The Inheritance Tax Law of 1919 was the law in 1925. Section 4 of the 1919 law included a tax on "transfer by deed, bargain, grant, sale, gift, or life insurance policy." Life insurance was not taxed if the beneficiary was a direct member of the family. Transfers made in contemplation of death, and all transfers made within two years of death, were taxable. The tax might not be imposed on the same property more often than every five years, however. The tax applied to all property transmitted by one resident of the state to another resident of the State, wherever the property was located; and it applied to all property with a *situs* in the state transmitted by a non-resident, except money and financial instruments.

Exemptions under the Inheritance Tax Law were as follows: Estates were valued and taxed as a whole, though the tax was based upon "the privilege of receiving property." If the recipient was a direct heir, \$10,000.00 of "clear market value" was exempted, while if the recipient was not a direct heir, \$1,000.00 was exempted. Bequests to charitable, educational and religious organizations were not taxed.

¹⁷Figures taken from *Comptroller's Reports*.

¹⁸This statement applies only to local privilege taxes.

Rates on direct inheritances ranged from one per cent to five per cent, with the maximum rate applying to taxable estates over \$500,000.00. Rates on other inheritances and transfers were five per cent to ten per cent, with the highest rate applying to amounts in excess of \$250,000.00.

Appraisal of estates was still made by the County Court Clerk, (though under limited supervision of the Department of Finance and Taxation after 1923) within ninety days after transfer was affected. The Clerk was instructed to assess "at clear market value" on the basis of both direct investigation and the use of schedules of information filed by the executor or administrator of the estate. The Clerk then notified both the executor and recipient of the transfer, as well as the Department of Finance and Taxation, of the amount of the tax liability. Provision was made for appeal to a three-man appraisal board in case of disagreement between executor and the County Court Clerk over valuation, and appeals might also be carried to the State Board of Equalization.

Taxes were due at time of legal transfer, and both executor and recipient were liable for the tax. A five per cent discount was allowed if payment was made within six months, while a six per cent penalty was imposed if the tax was not paid within one year. Payment was made to the County Court Clerk, who remitted to the State, taking a commission of five per cent of collections (but not more than \$100.00 for each estate).

Thus, even after 1923, the Inheritance and Transfer Taxes were still administered and collected by the County Court Clerks. The Department of Finance and Taxation was given exclusive control over delinquent collections, however, (that is, after one year from time of transfer), and might compromise such cases under certain conditions.

Collections for the biennium ending December 19, 1918, before the new law of 1919 was passed, were \$477,044.66. For the biennium ending June 30, 1924, under the new law, receipts were \$755,287.00; while for the biennium ending June 30, 1926, \$928,795.17 were received from this source.¹⁹

Corporation Excise Tax. Acting upon Governor Peay's recommendation, the General Assembly of 1923 imposed a

¹⁹Figures taken from Comptroller's Report, 1918, and from *Condensed Financial Statement of Receipts and Disbursements*, compiled by the Division of Accounts and Budgets, Department of Finance and Taxation, and covering the period of July 1, 1923 to June 30, 1932.

tax on corporation profits, under the name of a "corporation excise tax."²⁰ The tax was upheld by the State Supreme Court in 1924, when it was held that the terms "excise" and "privilege" were synonymous, and that privilege taxes might be measured by net profits.²¹

The tax imposed under this law was three per cent of net earnings of both domestic and foreign companies doing business in the state, (with the earnings pro-rated to the business done within Tennessee). Under the 1923 law, credits were allowed for corporation fees paid to the Secretary of State, for merchants privilege-*ad valorem* taxes, and for any other privilege taxes paid to the State. Banks were allowed to deduct fees paid to the Banking Supervisor, and insurance companies took credit for all fees paid, including fees paid for Fire Marshall inspection.

The tax did not apply to unincorporated companies.

The Department of Finance and Taxation was given exclusive control over assessment and collection of the corporation excise tax, and was given broad powers to rule on numerous questions of detail which were not strictly defined by the original act. Corporations were required to file schedules of information with the Department annually by May 1, and taxes were due on July 1. A penalty of one per cent per month, plus six per cent on the amount due, was imposed for delinquency. Information was exchanged by the Department, on a mutual basis, with the Federal Collector of Internal Revenue.

Actual payment of the tax by the corporations was made, under the 1923 law, to the Comptroller of the Currency rather than to the Department of Finance and Taxation.

The Corporation Excise Tax did not at once produce the million dollar annual yield which Governor Peay had anticipated when he proposed the measure to compensate for the revenues lost through reduction of the *ad valorem* tax. For the fiscal year ending June 30, 1924, the yield was \$674,648.75, and for the following fiscal year it was \$532,642.81.

Gasoline Tax, 1923. The first gasoline tax became law in March, 1923.²² Within a few years, this source of revenue

²⁰Public Acts of 1923, Chapter 21.

²¹Bank of Commerce and Trust Company V. Senter, 149 Tennessee, 569, 260 S. W. 144.

²²Public Acts of 1923, Chapter 58.

was to supply as much as half of the State total. Beginning with a rate of two cents, the tax eventually reached a rate of seven cents per gallon.

The tax, in 1923, was imposed upon the first seller of gasoline after it had been manufactured, or imported into the State. It was expected that the tax would be passed on to the eventual consumer, and it was required that the amount of the tax per gallon be posted on service-station pumps. No exceptions for non-highway use of gasoline were made by the 1923 law. Gasoline exported out of the state was not taxed, however. Considerable care in drawing the act was exercised in order to prevent the law's being declared unconstitutional on the grounds that it burdened inter-state commerce.

Distributors and dealers were required to report to the Commissioner of Finance and Taxation on forms supplied by him, with payment of the tax on a monthly basis. Such payment was made to the Comptroller rather than to the Commissioner, at this time.

While the receipts from the gasoline tax were at first allocated solely for the construction and maintenance of the highway system, there was soon a diversion to other uses, first for local roads, later for retirement of non-highway bonds, and even for the payment of current governmental expenses.

The two-cent rate of 1923 was replaced by a three-cent rate in 1925. Governor Peay expressed the belief that the tax should never exceed four cents. However, it was raised to five cents in 1929, and to seven cents in 1931.

Tobacco Tax, 1925. Governor Peay had believed that the tobacco tax should be only a temporary measure, to be repealed when demands for highway, bridge construction and other large capital outlays should diminish. He thought that eventually the gasoline tax and corporation excise tax would supply adequate funds.

The Tobacco Tax Law of 1925²³ applied the same general plan for taxation of "distributors" and "dealers" that had been used in taxation of gasoline sales. The tax was levied "on the privilege of distributing or selling tobacco in this State." Originally, the rate was ten per cent of the intended retail sales price, and it was paid by means of the

²³Public Acts of 1925, Chapter 2.

purchase of tax stamps, which were affixed by the first person offering the tobacco for sale after it "came to rest" in the state. The tax applied to cigars, cigarettes, manufactured tobacco and snuff.

Administration of the tax was under the Department of Finance and Taxation, Excise Division, and not more than two per cent of collections might be employed in collection and administration.

The receipts from the three new taxes—the Corporation Excise, the Gasoline Tax, and the Tobacco Tax—which joined the State's revenue family in 1923 and 1925 immediately constituted a vital source of State income, as the following table will show:

COMPARISON OF REVENUE SOURCES (SELECTED TAXES)¹

	1924	1925	1926
Property Tax ²	\$4,295,474.40	\$4,837,128.39	\$3,490,096.14
Privilege Taxes ³	1,045,592.47	1,112,204.63	1,097,272.13
Corporation Excise. . .	674,648.75	532,642.81	915,028.99
Gasoline Tax	1,543,466.91	2,568,623.95	3,518,858.08
Tobacco Tax		407,403.12	1,110,268.30

It has been noted earlier in this chapter that Governor Peay was favorable to a "pay-as-you-go," non-borrowing policy, both in 1923 and in 1925, although the Legislature abandoned the policy at its 1925 Session. By 1927, even Peay had been forced to modify his position in this respect.

When the State property tax rate was reduced from 36c in 1922 to 30c in 1923, and to 25c in 1925, most of the counties immediately raised the county rate by a compensating amount, so that the relief promised to property-owners was largely nullified. One reason the counties took this action was that they were required to match State expenditures on highways dollar-for-dollar. Many of the counties had gone heavily into debt, first to construct their own roads, and later to match State expenditures. By 1930, total indebtedness of the counties on account of road expenditures exceeded \$30,000,000.00. The limitation by the State on the general county tax-rate tended further to increase county debt, since taxes in excess of the limit might, be imposed to service debt.

¹SOURCE: *Condensed Financial Statement of Receipts and Disbursements*. Fiscal year ending June 30.

²Collected by the County Trustees. Does not include *ad valorem* taxes paid directly to the State.

³Collected by the County Court Clerks. Excludes privilege taxes paid directly to the State.

During the period from 1917 to 1925, as we have seen, sweeping changes occurred, affecting nearly every phase of the State's administrative and financial organization and procedure. However, despite the great changes, no period of relative stability, such as the State experienced from 1883 to 1910, was to follow. To the contrary, changes were to take place during the next twelve years which were of even greater magnitude. The State debt was to soar to unprecedented heights; enormous deficits were to appear; default on the debt was to be narrowly averted; new taxes were to appear and old taxes were to be more thoroughly exploited; and one old tax—the *ad valorem*—was to be virtually abandoned by the State government.

Chapter IX

HIGHWAYS, DEBT AND COLLAPSE (1925-1935)

Balanced budgets were few between 1910 and 1935. In fact the State went into debt each biennium except 1923-1925, either through short-term notes or long-term bonds.

In 1910, the total interest-bearing debt was \$11,793,-000.00. By 1930, it had increased by more than six hundred per cent, to a total of \$81,279,000.00. This represented an average annual increase of approximately \$3,500,000.00 per year. Actually, however, most of the debt was incurred between 1925 and 1930, when the average annual increase approximated \$11,000,000.00 per year.¹

By 1927, despite his strong penchant for "pay-as-you-go," Governor Peay was forced to endorse a policy of limited borrowing. His *Message* of January 6, 1927 urged the Legislature to re-enact the tobacco tax, which was due to expire on February 28th, since, he declared, "the revenues from this tax are needed for the schools."

The Governor believed that the basic highway system should be completed by 1929. "We should finish our main highways as fast as possible without imposing an enormous debt," he stated.² Indicating approval of limited borrowing, he added: "A part of the cost going into permanent construction may be fairly passed to the future. That part of our roads which exhausts with use should be borne by the generation using them."³

Peay proposed that the State relieve the counties of debt incurred in building highways. This was done in 1929, when an additional one-cent gasoline tax was allocated to the counties to enable them to pay interest and gradually retire the principal of more than \$30,000,000.00 of county highway bonds.

The authority, granted by the Assembly in 1925, to borrow on five-year notes, was renewed for the biennium 1927-1929, upon the recommendation of Governor Peay. He believed that approximately \$15,000,000.00 per year would be needed for highway purposes in this biennium, and he estimated that \$13,000,000.00 per year would be available from the Auto Registration Fees, the Gasoline Tax, and Federal Aid, leaving \$2,000,000.00 to be borrowed annually.

¹Figures taken, or computed from *Comptrollers' Reports and Condensed Statements*.

²*Senate Journal*, 1927, p. 36.

³*Ibid.*, p. 37.

The Governor also proposed that rural schools be constructed with State aid, with the funds being secured from loans which he proposed to amortize rapidly by applying all the proceeds of the Tobacco Tax which were not already ear-marked for other purposes—this meant nearly two-thirds of such receipts. He also recommended a half-million dollar building program for the University, also to be financed by short-term borrowing which would be similarly amortized. For the construction of highway bridges across sizeable streams, the Governor proposed borrowing, to be amortized from tolls.

Peay urged the 1927 Assembly to approve and send to the voters the "classified property tax" amendment to the Constitution which the 1925 Legislature had first passed. "The present taxing clause of our Constitution is archaic in requiring all property to be taxed on the same basis," he declared.⁴

In his last *Message*, Governor Peay expressed grave concern over the disposition of the Legislature to ignore budget proposals, vote heavy and extravagant expenditures without making provisions for additional revenue, and drive the State deeply into debt. He again urged the Assembly to approve the "classified property tax" amendment, and he noted that personal property was almost entirely escaping taxation. He declared that "We have in Tennessee probably not less than two billion dollars of valuable income-bearing personal property now going practically untaxed at all."⁵ He believed that classifying personalty for very low-rate taxation would produce enough additional revenues to permit a further reduction of the State *ad valorem* tax from 25c to 13c. "If I had the power," he declared, "I would strike every dollar of tax forever from the farm lands of Tennessee."⁶

During the 1927 Regular Session, Governor Peay vetoed numerous appropriation bills. "I shudder for the future of our finances," he declared. "Our labor is about to be wasted."⁷ He vetoed a bill which would have added another one cent to the gasoline tax for use by the counties on local roads, dubbing it "A Bill to Waste Annually a Million and a Half Dollars of Public Money" by "patching mudholes."⁸

⁴*Senate Journal*, 1927, pages 50-51.

⁵*Ibid.*, p. 310.

⁶*Ibid.*, p. 315.

⁷*Ibid.*, p. 616.

⁸*Idem.*

On April 25th, 1927, returning the General Appropriation Bill with a stinging veto message, Peay declared: "If you had deliberately set about to wreck the State's finances during your present session you could scarcely have done a better job."⁹ He accused the Assembly of "setting a record of extravagance unapproached in the legislative history of our state."¹⁰ In view of the achievements of the Brownlow administration between 1865 and 1869, this was indeed a scathing rebuke.

The Governor also denounced the creation of new and unnecessary offices, often against the advice of the departmental head concerned, and he opposed the increase of pensions "to those who never heard a gun fired in the Civil War."¹¹ Finally, he attacked the bill appropriating \$750.00 per member as a legislative "bonus" supposedly "for necessary expenses" (not identified), and he declared that the Assembly had increased appropriations by nearly two and one-half million dollars while it reduced probable revenues by nearly one and one-half millions.

Despite the Governor's eloquent pleas, the General Appropriation Bill was passed over his veto, and the State thus began a joy-ride of "boom and bust" which was to bring its credits to the lowest ebb since the 1870's.

Governor Peay died on October 2nd, 1927. He was succeeded by the Speaker of the Senate, Henry Horton.

After the death of Governor Peay, the policy of "pay-as-you-go" was completely abandoned, and there quickly followed a period of heavy borrowing, chiefly to pay for larger highway and bridge construction projects. Expenditures increased by three hundred and thirty per cent between 1924 and 1928, and by 1930 the increase had reached four hundred and twenty-five per cent. The following table tells the story:

TOTAL EXPENDITURES, 1924-1930¹

(Fiscal Year Ending June 30th)

1924.....	\$15,616,757.27
1925.....	22,058,934.08
1926.....	23,969,818.77
1927.....	26,185,582.12
1928.....	35,126,450.82
1929.....	45,924,979.38
1930.....	54,865,802.99

¹From Condensed Financial Statement of Receipts and Disbursements.

⁹*Senate Journal*, 1927, p. 1010.

¹⁰*Ibid.*, p. 1011.

¹¹*Idem.*

To finance the increased expenditures, old taxes (except the property tax) were raised, new taxes were imposed, and borrowing increased at an unprecedented rate. The interest-bearing debt increased by more than five hundred and thirty per cent between 1924 and 1930, the increase averaging \$11,000,000.00 per year (approximately) during this six-year period.

The gasoline tax was raised to 5c per gallon in 1929 (from 3c per gallon), and in 1931 it was increased to 7c. More and more of the receipts from this tax were diverted to service the mounting debt, leaving very little for current use by the Highway Department. By 1933, the gasoline tax receipts were allocated as follows:¹²

Sinking Fund, Highway Bonds	3.1¢
County Highway Bonds	1.0
County Aid, Lateral Roads	1.0
Sinking Fund, General Bonds	1.0
State Highway Department	.9
Total	7.0¢

Tobacco Tax Becomes Permanent. The Tobacco Tax was re-enacted in 1927, as Governor Peay had requested. In 1929, the rates were changed from ten per cent of the intended sales price to one-tenth of one cent per cigarette when the sale price was 1c or less per cigarette. This represented an increase of approximately thirty-three per cent. The rates on other kinds of tobacco remained the same as before.

The receipts from the Tobacco Tax were completely utilized by the educational system, by 1929, thus making it very probable that the tax would be permanent. Receipts were allocated as follows:¹³

Equalization Fund for Rural Schools (8-months law)	\$800,000.00
High School Supplementary Fund	200,000.00
Rural School Building Amortization Fund	82,500.00
State University Building Amortization Fund	225,000.00
General State Education Fund	Rest

Collections from the Tobacco Tax exceeded one million dollars for the fiscal year ending June 30, 1926, and exceeded two millions for the fiscal year ending June 30, 1931.

*Income Tax Law of 1929.*¹⁴ It will be recalled that Article II, Section 28 of the Constitution permitted the Legislature to levy a tax upon incomes derived from stocks and

¹²Message of Governor Horton, *Senate Journal*, 1929, p. 35.

¹³Special Tax Message, Governor Horton, *Senate Journal*, p. 93.

¹⁴Chapter 86, as amended by Chapter 116, *Public Acts of 1929*.

bonds which were not taxed *ad valorem*. It may be recalled also that in Chapter IV, it was mentioned that a limited income-tax (of five per cent) was applied to the income on stocks and bonds of railroads whose charters exempted the securities from *ad valorem* taxation. In Chapter V, it was recorded that, under a law passed in 1895, a five per cent tax was levied on the income from all stocks and bonds not taxed *ad valorem*. Apparently both of these taxes were imposed as a means of securing more revenues, directly or indirectly, from the railroads during the period when these companies were resisting attempts by the State to tax them.

"The "stock and bond income tax" of 1929 was of a different character. In the first place, it definitely excluded all stocks and bonds from *ad valorem* taxation, and, in the second place, it placed a five per cent *in lieu* tax on the income from such securities. This law, it was hoped, would produce more revenue than the *ad valorem* levy on such intangible personalty had produced. The exemption of such securities from *ad valorem* assessment and taxation applied to State, county and municipality. Whereas a bond of \$1,000.00 par value—if listed and taxed under *ad valorem* taxes—would have had to pay \$30.00 property taxes on an over-all tax rate (State-county-city) of \$3.00 per \$100.00, it would be taxed only \$2.50 under the new law, if we assume it possessed a five per cent rate of interest. The law excluded from the tax income from Federal, Tennessee State, Tennessee County and Tennessee municipal bonds, bonds of educational, charitable or religious organizations, and the stocks of certain corporations which, in effect, paid the *ad valorem* tax "at the source."¹⁵ Forty-five per cent of the receipts of this tax were earmarked for distribution to counties and municipalities.

The tax was collected by the Department of Finance and Taxation. Exempted securities were ordered struck from the assessment rolls by the county tax assessors.

The new tax partially followed the suggestion of the Rye Tax Commission, made in 1915, that notes, acceptances and mortgages (broadly construed as "stocks and bonds") be included. It applied to commercial paper and mortgages with maturity dates in excess of six months (unless held by banks or other financial corporations). The Supreme Court upheld the law in 1929.¹⁶

¹⁵*Idem*.

¹⁶William S. Shields et al. V. Albert Williams, Commissioner of Finance and Taxation, 1929.

For fiscal 1930, the tax produced \$571,962.13, and the following fiscal year it produced \$748,961.07.¹⁷ It was amended in 1931 and again in 1937, as noted later in this chapter.

Other New Taxes, 1929. A tax of 5c per pound on malt extracts, and a tax of 5c per pound on carbonic gas used by soda-fountains, were levied in 1929 but produced insignificant amounts of revenue.

Increasing Importance of Gasoline Tax. Due both to the higher gasoline tax rate and also to the increasing use of gasoline in the State, especially by commercial vehicles, this source of revenue increased rapidly in importance, both relatively and absolutely. The following table shows how much was collected under the various rates, and the proportion these amounts bore to total tax revenues.

RECEIPTS FROM GASOLINE TAX, (SELECTED DATES),

1924-1932¹

Fiscal Year		Receipts	Percentage of
Ending June 30	Rate	Gasoline Tax	Total Tax Revenues
1924	2¢	\$ 1,543,466.91	14.53
1926	3¢	3,518,858.08	20.33
1928	3¢	4,054,261.56	22.65
1930	5¢	10,165,723.16	39.25
1932	7¢	12,389,907.67	49.94

¹Based upon figures taken from *Condensed Financial Statements*.

Thus the gasoline tax, by 1930, had become the mainstay of the Tennessee revenue system.

Non-Tax Revenues. Receipts from Federal Aid, County Highway Aid, and Fees (such as institutional receipts) increased in importance during the decade of the 1920's as well as during the early 1930's. These trends will be considered in Chapter XIII (TRENDS IN RECEIPTS).

The principal increase in non-tax revenues during the 1925-1929 period came from borrowing, however. Governor Horton, while commending the "pay-as-you-go" plan as a "triumph of financing," nevertheless called for a bill which upon recommendation of the Highway Department, would authorize the Funding Board (composed of the Governor, Comptroller, Treasurer, Secretary of State and the Commissioner of Finance and Taxation) to borrow on "tax-anticipation notes" to supplement the income of the Highway Department. This authority was granted, with the following results.

¹⁷Figures taken from *Condensed Statement, 1936*.

RECEIPTS FROM BORROWING, AND RATIO TO TOTAL
RECEIPTS¹ (1926-1931)

Date	Receipts	Ratio to Total Receipts
1926	\$ 1,950,000.00	7.80%
1927	2,500,000.00	9.19
1928	10,500,000.00	26.49
1929	31,700,000.00	48.47
1930	28,250,000.00	40.85
1931	14,030,632.00	35.13

While it is true that part of the amounts borrowed during this period were used for other purposes, most of the debt was created to finance the building of highways and highway bridges. It may well be called "The Period of Highway Debt." This was to be followed by a "Period of Current Deficit and Depression Debt."

Abolition of the State Ad Valorem Tax. Governor Horton, like his predecessor, favored lower State property taxes as a means of reducing the burden on agricultural interests, and despite the heavy borrowing shown in the above table, he proposed abolition of the State's general property tax beginning in 1930. For the year 1931, and following, he proposed that only an eight-cent *ad valorem* rate be imposed, this being an amount which had been earmarked entirely for educational uses by laws of 1873 and 1917.

To compensate for loss of the three and one-half millions (approximately) which would result from abandonment of the State property tax, Horton recommended the increase to 5c in the gasoline tax previously noted for 1929, the imposition of a tax on lubricating oil, the income tax on stocks and bonds, and the increase of the tobacco tax from 2c to 4c per package. Three of these recommendations were to be accepted by the Legislature.

The General Assembly of 1929 authorized the borrowing of a total of \$28,796,000.00, of which \$25,000,000.00 was appropriated for highways and bridges, and the other \$3,796,000.00 for construction and improvement of educational and institutional facilities. This was done at the regular session which met early in January, 1929.

Following the stock-market crash of October, 1929, and the beginning of the economic depression, Governor Horton called the Legislature into special session on December 2, 1929 and asked for additional "emergency borrowing" authority to permit the completion of the highway system and

¹Based upon *Condensed Financial Statement*. Fiscal year ending June 30th.

also as an aid in combatting the "temporary business depression."¹⁸ The Governor again recommended repeal of the *ad valorem* tax in 1930, despite the precarious condition of the State's finances, and the Legislature responded by passing Chapter 26,¹⁹ which abolished the State's general fund *ad valorem* tax of 7c and the University tax of 5c, beginning in the year 1931. During the year 1931, no State property tax levy was made, for the first time in the history of Tennessee. In 1932 and thereafter, a rate of 8c per \$100.00, all allocated for educational uses, was imposed.²⁰ Thus in 1931 the State virtually abandoned this traditional source of revenue.

Also at this session an "estate tax" was passed which, under Title III of the Federal Revenue Act, passed in 1926, permitted the payment of a part of the Federal Estate Tax by means of receipts from payment of State Estate Taxes. It may be recalled that this was the "crediting act" which caused the State of Florida to repeal a constitutional amendment which had prohibited estate and inheritance taxes in that state. The imposition of this tax did not alter the regular inheritance-tax rates.

Governor Horton favored extension of the provisions of the "corporation excise tax" (three per cent tax on corporate profits) to include unincorporated businesses and business income of individuals, but the Legislature refused to pass this in 1929. Again, in 1931, Horton recommended such a law, and a bill was introduced which would have raised the rate from three per cent to five per cent and applied the tax to business income of individuals and partnerships as well as to corporations. However, the bill was not passed.

During 1929 and 1930, proceeds from the bond and note sales were deposited in banks chosen by the Funding Board, there to remain until drawn upon for highway and bridge expenditures.

Frequent charges of corruption, and of collusion between State officials and the investment banking firm of Caldwell and Company, of Nashville, were heard at this time. Colonel Luke Lea, former United States Senator and publisher of several Tennessee newspapers, was a close associate of Rogers Caldwell in numerous business ventures. A supporter of the administration then in office, Colonel Lea

¹⁸Message of December 2, 1929, *Senate Journal*, p. 29.

¹⁹Acts of 1929 (Special Session).

²⁰Inadvertantly, due to adoption of the undeleted clause in the *Williams Tennessee Code* (1932).

was accused of influencing the Governor and other State officials on the Funding Board to deposit excessive amounts, inadequately bonded, in the Caldwell-controlled Bank of Tennessee. This period is thoroughly covered in a book written by an economist at the University of Florida, Professor J. B. McFerrin, called *Caldwell and Company*. The author of this well-documented account refers to "the abysmal depths of corruption in public office and the subordination of its financial affairs in the interests of Lea and Caldwell."²¹

The Funding Board called for bids on \$31,050,000.00 State bonds (called "notes") late in 1929, and on January 9, 1930, two bids were received. One, from Lehman Brothers Company of New York, offered to buy \$29,050,000.00 of the issue at four and eight-tenths per cent interest. The only other offer was from Caldwell and Company, which offered to purchase the same amount at an interest rate of four and six hundred seventy six thousandth per cent, and this was accepted by the State. Professor McFerrin wrote that the bonds were signed by State officials who were in New York in the offices of Lehman Brothers, and not in Nashville in the offices of Caldwell and Company. It was stipulated in the Caldwell bid that certain sums realized from the sale should be deposited in the Bank of Tennessee, and this was done. On November 6, 1930, the Bank of Tennessee failed, with \$3,418,000.00 of State funds on deposit and without adequate collateral to prevent heavy loss. Other banks of the Lea-Caldwell combination held an additional \$3,659,000.00 of State deposits.

The loss of such large sums under questionable circumstances, and coming just at a time when the economic depression was deepening, led to immediate political consequences. State Senator Tom Taylor suggested on November 13th, 1930, that Governor Horton should be impeached. A Citizens Public Emergency Committee was formed by former-Governor Roberts, Hill McAllister (Governor from 1933-1937), Lewis Pope, C. Neil Bass, and other prominent citizens, and a mass meeting in Chattanooga was attended by 4,000 people.

When the Sixty-Seventh Legislature met on January 5th, 1931, a Joint Resolution was passed appointing an investigating committee of five senators and seven representatives, with the speakers of the two houses also

²¹J. B. McFerrin: *Caldwell and Company*, p. 115.

members, *ex officio*. Hearings were held, and the services of a nationally-known private firm of accountants were engaged to make a complete investigation and audit. The results of the investigation were very damaging to the Administration, according to McFerrin, who stated: "The report of the audit showed numerous violations of law, and laxness in handling the affairs of the State."²² Testimony taken by the Committee from former State Highway officials indicated that improper influence had been brought to bear by private interests to secure the routing of State highways in a manner that would benefit private lands, and to have the State purchase highway-building materials without competitive bidding from firms owned or controlled by the Lea-Caldwell interests.

Impeachment sentiment was very strong when the Legislature convened in January, 1931, but as the investigation proceeded for nearly five months, public opinion veered to the belief that the Governor had been unaware of the improper actions. The Republican minority in the Legislature, although it had voted heavily, on May 25th, for the appointment of a Committee to draw up articles of impeachment, changed its position when the House of Representatives later voted on the actual impeachment motion, and it was therefore defeated. Professor McFerrin suggests that a promise of larger highway expenditures for East Tennessee, the Republican strong-hold, had produced the change of heart. He added that apathy among the citizens was too great to support impeachment, since "crookedness in office had long since lost its novelty."²³

Income Tax Laws of 1931. Two income-tax laws were passed in 1931. One of these, Chapter 20 of the *Public Acts of 1931*, merely continued the 1929 tax on the income from stocks and bonds not taxed *ad valorem*.

The other income-tax law was the Anderson Bill, passed at the second extra session in 1931, largely to test the constitutionality of such a tax.²⁴ The bill provided for a graduated income tax on the net income of all individuals in the state. Exemptions of \$1,500.00 for a single taxpayer, \$2,500.00 for the head of the family, and \$300.00 for each dependent, were provided. A \$1,200.00 exemption was provided for fiduciaries or trusts. The rates ranged from one per cent on the first \$2,500.00 of net taxable income, one and one-half per cent on the second \$2,500.00, and up to a

²²*Op Cit.*, page 199.

²³*Ibid.*, page 202.

²⁴Chapter 21, Acts of 1929 (Extra Session).

five per cent maximum on all taxable net income above \$150,000.00.

By a unanimous vote, the State Supreme Court decided that the income-tax law (Anderson Bill) was unconstitutional, holding that Article II, Section 28 of the Constitution, which specifically permitted the taxation of income from stocks and bonds not taxed *ad valorem*, was by implication a prohibition on other forms of individual income taxation.²⁵ Thus was the door firmly closed upon the imposition of a general income tax until such time as the long political sleep of the citizenry should end in the passage of constitutional amendment, or the creation of a new constitution. There remained the three per cent tax on the net profits of corporations (corporation excise), and the five per cent tax on the income from stocks and bonds not taxed *ad valorem*.

In his last *Message*, to the Special Session of the Legislature, on December 7, 1931, Governor Horton declared that the Gasoline Tax, despite a rate of 7c per gallon, was now inadequate to service the highway debt.

At Washington, as the great economic depression deepened, President Hoover sought to reduce Federal expenditures and increase Federal taxes, while refusing to spend directly for relief and unemployment.

Tennessee's direct State debt, by June 30, 1932, was \$89,072,000.00 (including \$47,200,000.00 short-term Highway Notes), and the "assumed debt" of County Highway Bonds was \$32,420,301.34.²⁷ Schools were beginning to shorten their terms, or even close altogether, as educational allocations from the State failed to arrive and property-tax delinquencies increased rapidly.

Thus the limitations of an inflexible Constitution, the exhaustion of the State's credit on highway expenditures (financed with short-term notes), losses of deposits in failed banks, and the creeping paralysis of the greatest economic depression in the nation's history had brought the State to the verge of financial collapse.

²⁵Evans V. McCabe, 164 Tennessee 672 (1932).

²⁷Condensed Financial Statement.

Chapter X

RETRENCHMENT AND RECOVERY

(1933-1937)

When Governor Hill McAlister took office on January 17, 1933, the State's finances were at their lowest ebb since Reconstruction Days. Banks were failing, relief loads were growing, schools were closing, revenues were declining, the bonded debt was mounting rapidly, and there was a heavy unfunded debt in the form of unpaid bills and warrants. An operating deficit of nearly six million dollars was in prospect for the biennium ending on June 30.

Governor McAlister's *Inaugural Message* marked the end of an era of rapid and often reckless expansion which had lasted for nearly two and one-half decades. Policy was now dictated by the circumstances, and the sentiment of the Legislature and the people supported the Governor's statement that:

To every department of our government there must be applied by us the painful but necessary process of contraction and reduction in its cost. We must retreat, we must retrench, or we face the possibility of the whole structure of government to fail and fail.¹

The Governor estimated that accumulated deficit of nine million dollars existed in the form of unpaid warrants, and that the total operating deficits for the years 1931-1933 were more than sixteen millions. Ten millions of new debt had been incurred merely to pay current expenses since the termination of borrowing for highway purposes in 1930 and this "Current Deficit Debt" was eventually to reach twenty millions.

McAlister took the position that any substantial increase in revenues was impossible, and that therefore drastic reduction of expenses was the only course left to the State. The Legislature readily followed this recommendation, and reduced general appropriations by nearly thirty per cent for the biennium 1933-1935. New highway construction was completely halted, except for projects entirely financed by the Federal Government. One million dollars were diverted to the General Fund from the Gasoline Tax, and revenues of the Highway Department were budgeted for the first time.

¹*Senate Journal*, 1933, page 98.

Despite the drastic economies, the debt continued to increase reaching \$94,804,000.00 on June 30, 1934, and \$97,400,000.00 on June 30, 1936. All obligations were met by the State, however, and gradually it recovered its credit standing, the interest rate on bond issues falling from six per cent in 1933 to three and one-quarter per cent in 1935.² Federal funds for relief and public works took all such responsibilities from the State after September, 1934. Bank failures virtually ceased after 1933, and the construction activities of the Tennessee Valley Authority supplied additional economic activity and soon provided the people with large savings in electric rates.

By 1935, however, Governor McAlister declared that the limits of retrenchment had been reached, "if not exceeded." Federal highway expenditures again required matching with State funds, and Federal Relief Administrator Harry Hopkins notified the Governor that Tennessee must supply \$2,500,000.00 for relief purposes.

Proposal for a General Retail Sales Tax. Voicing the recommendation with reluctance Governor McAlister called in 1935 for a General Retail Sales Tax which would produce approximately \$11,500,000.00 per year, the receipts to be spent on relief, elementary schools and the institutions of higher learning, aid to the counties to enable them to reduce their tax rates on property, and for General Fund purposes. The Governor proposed that the tax be limited in duration to thirty months, and declared that only the unconstitutionality of the Anderson General Income Tax Bill of 1931 made the sales tax justifiable as an emergency measure. He noted that twenty of the states of the Union, including four states adjoining Tennessee, had retail sales taxes.

The Governor's reluctance for adoption of the sales tax was more than shared by the Legislature, however, which after a stormy session, defeated the bill. The one-cent gasoline tax which had been diverted to the General Fund was now earmarked for payment into a sinking fund for retirement of highway and other bonds.

As a result of the refusal of the Legislature to provide substantial sources of additional revenue, the debt continued to increase until June 30, 1938, when the budget was again finally balanced and debt reduction was begun.

²Condensed Financial Statement.

The following table shows the trend of disbursements during this period:

GROSS DISBURSEMENTS, 1930-1936¹

1930.....	\$64,978,994.19
1931.....	57,058,061.83
1932.....	56,324,653.22
1933.....	33,107,044.71
1934.....	49,027,255.37
1935.....	44,193,345.55
1936.....	44,328,477.39

During Governor McAlister's tenure, from 1933 to 1937, several new taxes were enacted, although they were not of major importance.

Beer Tax of 1933. No recommendation concerning a beer tax appeared in the Governor's *Message* of 1933. However, the Legislature enacted a bill to authorize the sale of beer of no more than five percent alcoholic content by weight, and to tax such sales at the rate of \$1.20 per barrel of 31 gallons.³ In addition, new privilege taxes were levied on retail sellers of beer, ranging from \$5.00 to \$25.00 (State levy), and a tax of \$150.00 to \$300.00 on breweries and wholesale distributors.⁴ A higher rate was charged retailers if the beer was to be consumed on the premises than if the beer was consumed off the premises. The beer sales tax was placed under the administration of the Department of Finance and Taxation, while the privilege taxes were collectible by the County Court Clerks.

Highway Mileage Tax. Both Governor Peay and Governor Horton had suggested that commercial vehicles should be specially taxed because of the damaging effects of heavy loads on the highways, as well as the greater expense involved in constructing roads and bridges which could accomodate such vehicles. They also favored regulation of the sizes and weights of vehicles that could use the highways, as did Governor McAlister in 1933.

In 1931, the Second Extra Session of the Legislature placed a tax varying from $\frac{1}{2}$ of 1c to 8c per mile, on trucks for hire.⁵ The rates were based upon the carrying capacity of the vehicle. Buses were taxed $\frac{1}{4}$ of 1c to 1c per mile, varying with the passenger-capacity of the vehicle. Registration fees were also raised for trucks, with the rates increasing as the ton-capacity increased.

¹Condensed Financial Statement of Receipts and Disbursements, Ten Fiscal Years, ended June 30, 1936, page 17.

³Public Acts of 1933, Chapter 69.

⁴Ibid., Chapter 115.

⁵Public Acts of 1931, Chapter 13 (Second Extra Session).

In 1933, acting upon McAlister's recommendation, the Assembly passed laws regulating more carefully the size and weight of motor vehicles using the State's roads, and imposing a tax of from $\frac{1}{2}$ c to 1c per mile (depending upon the ton-capacity). The receipts from this tax were to be used exclusively "for the construction, maintenance, repair and upkeep of said highways and for the cost or expense of administering the law governing the use of such highways."⁶ Exceptions were made for agricultural vehicles.

Franchise Tax of 1935. In July, 1935, Governor McAlister proposed that a Corporation Franchise Tax be imposed to help eliminate the recurring operating deficits. As a result, Chapter 5 of the *Public Acts of 1935* was passed by the Legislature, imposing an annual tax of 15c per \$100.00 on the capital stock, surplus and undivided profits of corporations. The act also sought to include business trusts and partnerships under the tax, but this portion of the law was held to be unconstitutional.⁷ The Franchise tax was collected by the Department of Finance and Taxation. It was thought that the tax would produce nearly two million dollars annually, but its yield was only \$626,348.36 during its first full year in effect. The law was amended in 1937, and thereafter proved more productive.

Other Revenue Changes, 1933-1937. The tobacco tax law, originally passed in 1925, was amended a number of times during this period. The change made in 1927 has already been noted. In 1929, the rate on each package of cigarettes was raised from 2c to 4c.⁸ In 1931, it was required that the tax be paid by manufacturers, jobbers or wholesalers, in the hope that this would reduce the numerous cases of tax avoidance which were appearing. Further amendments to the law, seeking to increase administrative efficiency, were passed in 1933.⁹

As a result of the higher rates and better administration, tobacco tax collections showed a generally upward trend, though the depression years of 1933-1935 produced small reductions. Receipts were in excess of two million dollars from 1930 onward except for the fiscal year ending June 30, 1933. Thus Governor Peay's modest "temporary tax" of 1925 had become a permanent and important source of revenue within five years.

⁶Public Acts of 1933, Chapter 114, Section 5.

⁷C. H. Corn, et al, *West Kentucky Coal Company V. Dancey Fort, Commissioner*, 170 Tennessee 375.

⁸Public Acts of 1929, Chapter 17.

⁹Public Acts of 1933, Chapters 57-58.

Growth of "Privilege Excise Taxes." The imposition of an additional number of "privilege taxes" whose rates were measured by the "intended retail sales price," was a feature of this period. Though the subject of the tax was not, as a rule, the retailer, the incidence of the tax was expected to rest upon the consumer, and in effect these taxes represented a gradual extension of a sales tax. In addition to the tax on gasoline, tobacco and beer, other taxes in this category included the oleomargarine tax (1931), the malt extracts tax, and the liquid carbonic gas tax. Other such taxes were to be added within a few years, as will be noted in the next chapter.

Administrative Reorganization, 1933-1937. The present chapter deals with developments prior to 1937, and does not include the significant administrative and revenue changes which took place under Governor Browning's administration (1937-1939).

Following the Reorganization Act of 1923, certain weaknesses in the organization and administration of the State government began to appear, some new, and some the reappearance of older evils. Increasing numbers of independent agencies appeared, and the budgetary and auditing systems showed deficiencies. Central purchasing had not been fully developed.

Contrary to the views of most governors and of most students of governmental organization, Governor McAlister believed that too much authority had been vested in his office. Investigations were made by the newly-formed Tennessee Taxpayers Association, by independent private auditors, and by well-known experts in state finances, such as Professor Charles P. White of the University of Tennessee, and Professor T. R. Snavely of the University of Virginia, and some of the recommendations growing out of these investigations were embodied in the administrative changes made in 1935, 1937 and 1939.

In 1933, a law was passed which required that the governor's appointments of departmental heads be confirmed by the senate, and the terms of these commissioners were made to coincide with the incumbency of the governor. In 1935, however, the requirement of senate confirmation of such appointments was repealed. The pre-auditing function of the Department of Finance and Taxation, noted under the *Reorganization Bill of 1923*, was now transferred to the comptroller's office.

During 1935 and 1936, numerous evasions of the gasoline tax were unearthed, showing collusion between employees in the Gasoline Tax Division of the Department of Finance and Taxation, and producers and distributors of gasoline. Suits were brought against both private companies and public officials. It was brought to light that large amounts of gasoline had been brought into the State marked as kerosene, and more than \$50,000.00 in delinquent revenue was collected. During the trials, the head of the Gasoline Tax Division committed suicide.

The Assembly of 1935 created a Commission composed of the Governor, Attorney General, Treasurer, Comptroller, and the Executive Secretary of the Tennessee Taxpayers Association to make an investigation into the accounting systems in use in the various departments. As a result, new systems were installed in the Comptroller's Office, the Treasurer's Office, and the Department of Finance and Taxation. The Purchasing Division was reorganized. The Comptroller's Office now became a central accounting agency.

Late in 1936, Governor McAlister called the Legislature into Special Session to enact an Unemployment Compensation Law which would take advantage of the Federal Social Security Act of August 14, 1935. The Federal tax on employers of companies with eight or more employees had gone into effect on January 1, 1936, and the State was required to adopt an approved Unemployment Compensation Law by December 21, 1936 in order to receive the ninety per cent credit or refund allowed by the Federal Law. Such a bill (which also bore the approval of the Governor-Elect, Gordon Browning) had previously been prepared, and this was passed without opposition on December 19, 1936. Lack of revenues caused action on old age pensions, maternity aids, and other features of the social security system, to be deferred.

Under Governor McAlister a return was made to the old plan of earmarking a proportion of revenues (to the extent of fifty per cent at this time) for education rather than making fixed-sum expenditures by special appropriations, and allocations were placed on a monthly instead of a quarterly basis. As a result, public education was assured of a more certain though varying income.

During McAlister's tenure, authority was granted to refund bonds and highway notes into bonds with a lower interest rate. Most of the original five-year highway notes

had been refunded into ten-year notes in 1929, and these were due to mature in 1939. However, only \$11,108,000.00 of the new bonds were accepted by the old bond-and-note-holders by the end of 1936.

As Governor McAlister surrendered his office to Governor Browning on January 15, 1937, the State could look forward to a biennium with a balanced budget for the first time in twelve years, and for the third time in twenty-seven years. The State's credit had recovered fully from the rock-bottom point which had been touched in June, 1933, and the State government was now ready, with increasing revenues reflecting economic recovery, and with increased non-tax revenues reflecting heavier Federal aids and grants, to assume new functions, as well as more adequately to perform the older functions of education, charity, correction and promotion.

Chapter XI

THE REVENUE SYSTEM IN 1937-1939

Governor Gordon Browning brought to his office a vigorous program of debt retirement, administrative re-organization, new expenditures and increased revenues. While sponsoring expanded appropriations for social security, education and other purposes, he refused to resort to an unbalanced budget as a means of financing the added expenditures. In his first *Message*, on January 15, 1937, he stated:

I shall propose revenues to meet every expenditure advocated. I propose that payments automatically cease unless we are certain of the availability of funds within the period of the appropriation. All existing deficits should be funded, and existing funds used for designated purposes. . . . Under this system, a deficit is impossible.¹

Thus Governor Browning's plan was to correlate expenditures directly with revenues. Spending was to be, insofar as possible, a variable, measured by the receipts ear-marked for given purposes. While certain charges were, of course, fixed, others, such as sinking-fund payments, educational and social security allowances (to some extent) were more flexible.

Browning proposed that "the unorganized monstrosity we call the State Debt" be funded in full under a plan calling for complete liquidation within the shortest practicable time.

The Re-organization Plan of 1937. On January 26, 1937, Governor Browning presented a Re-organization Bill to the Assembly, which was passed on February 1st.²

Under this law, two new departments were added to the eight which already existed, and one of the old departments was reconstituted and enlarged.

Department of Administration. In this new department were consolidated numerous functions which had largely been performed by several other departments. It was subdivided into six divisions, each headed by a director, as follows:

(a) Division of the Budget. This Division assisted the Governor in preparing the budget, and the Director was given power to withhold or grant quarterly allotments of funds on the basis of work-program reports. He reported

¹*Senate Journal*, 1937, p. 163.

²*Public Acts of 1937*, Chapter 33.

quarterly to the Governor on the financial condition of each agency of government. He was also empowered to investigate any State office to eliminate duplication of functions and other inefficiencies, and to propose means for securing greater economy and better organization.

(b) The Division of Accounts was given wide authority to pre-audit all claims against the State, to approve all contracts, to certify all payrolls and orders requiring expenditures, and to prescribe the accounting systems to be used by the various departments and agencies. The Director imposed efficiency standards for both workers and materials used by the State.

Thus the functions of the old Division of Accounts in the Comptroller's Office, and the functions of the Division of the Budget in the Department of Finance and Taxation, were now placed in similar divisions in the new Department of Administration.

(c) The Division of Purchasing in the new Department also inherited its functions from the Department of Finance and Taxation. It was given much wider powers than before, to purchase and store materials and supplies, to provide building and office space and supervise central storage space for the other departments. Heads of five of the departments and the Director of the Division of Purchasing constituted a Standardization Committee for the establishment of uniform specifications and the standardization of supplies and equipment.

(d) The Division of Local Finance was planned eventually to have full supervision of local fiscal affairs, with power to set up accounting, budgeting and reporting systems for local sub-divisions of government; to possess authority to audit local offices and make regulations concerning debt policy and bond issues for counties and municipalities; to supervise cases of local "financial embarrassment" or default; and to study and make recommendations concerning the system of State subsidies. In such capacities, the Director of this Division was to advise the Governor on matters of local finance, assisted by an Advisory Committee of five members.

However, the full performance of these functions by the Division of Local Finance was contingent upon a subsequent legislative act implementing these proposals and making the necessary appropriations. Since such an act has not yet been passed, this agency continues to exist in name rather than in deed.

(e) The Division of Personnel was established to put the newly-passed Civil Service Law into operation, and was given authority to prescribe rules for a merit system, give examinations and certify eligible employees to departmental heads, and set up a system of classification and compensation for State employees.

(f) The sixth division in the new Department of Administration was the Division of Highway Patrol, which was transferred from the Department of Finance and Taxation.

Thus the Department of Administration was to perform several new duties, as well as to assume and correlate functions formerly performed by various other State offices. As a result of the changes, the Department of Finance and Taxation became purely a department for the collection of revenues, and the Comptroller's Office now acted almost entirely as a post-auditing division.

Department of Conservation. The second new department created at this time was the Department of Conservation. In addition to the duties generally attaching to such a department relative to game, fish, forests, parks and geological surveys, it was also given the function of hotel and restaurant inspection, and was designated as a tourists' information bureau and a state advertisement agency.

Department of Institutions and Public Welfare. The Department of Institutions, which had been created in 1923, was now replaced by a Department of Institutions and Public Welfare. This large new department was given supervision over State correctional and charitable institutions and over similar county institutions receiving State aid. It was also designated to operate and supervise all social security and welfare activities set up either by the State alone, or in co-operation with the Federal Government (unless otherwise allocated by Federal law). Unemployment Compensation and Workmen's Compensation systems remained under the Department of Labor, however.

"Settlements" with county officers, and supervision of county offices performing revenue functions for the State, now were performed by the Department of Finance and Taxation instead of by the Comptroller's Office.

The Comptroller was given wide authority to set up a complete and efficient system of post-audit, with powers to examine by a continuing as well as by a post-audit, the accounts of all spending agencies, and to make reports and recommendations to the Legislature. This office was also

designated to aid the Legislature and its committees in making financial investigations. It was required to examine and certify as to correctness the statements of the Division of Accounts and of the State Treasurer, before these should be published. It was also authorized under certain conditions to make an annual audit of county and municipal offices, except in the case of those offices authorized by law to provide their own audits.

State Board of Equalization. The Commissioner of the new Department of Administration now replaced the Superintendent of the Division of Taxation as a member of the five man Equalization Board. One of the members, the Commissioner of Finance and Taxation, acted as Secretary, and kept records which were open to public inspection.

Funding Board. Under the 1937 law, this Board was composed of the Governor, Treasurer, Secretary of State, Commissioner of Finance and Taxation, and Commissioner of Administration (the same as the State Board of Equalization). This group was also designated by the Debt Retirement Act to act as a Board of Liquidation of State Debt.

It was provided in the 1937 Re-organization Act that no exceptions be allowed to the requirement that all State offices and institutions pay in their receipts of all kinds in full, without deductions, to a designated State Depository, receipting the deposit both to the State Treasurer and the Director of the Division of Accounts. However, the Commissioner of the Department of Administration was given the right, upon approval by the Governor and the Treasurer, to make exceptions "if the satisfactory conduct of the State's business clearly demands it."³

Debt Retirement Plan of 1937. Acting upon Browning's proposal, the General Assembly passed Chapter 165, *Public Acts of 1937*, to provide the most comprehensive plan of funding, refunding, debt consolidation and debt retirement ever adopted by the State.

This Act provided for funding and ultimately retiring \$128,900,000.00 of debt for which the State had been directly or indirectly liable (including the full "County Reimbursement Debt" of \$31,500,000.00). Under the plan, \$120,000,000.00 would be liquidated by 1953. Twenty-nine categories of interest-bearing debt, which had carried interest rates ranging from three and one-fourth to six per cent, were consolidated into the new issues.

³Public Acts of 1937, Chapter 33, Section 28.

For the payment of the interest and principal, six revenue sources were pledged, if needed. These were: Five cents of the Gasoline Tax; one-half of the proceeds of the Auto Registration Fees; the Gasoline and Kerosene Inspection Fees; net revenues of the State-owned toll bridges; receipts from the Corporation Franchise Tax; and \$307,500.00 of the Tobacco Tax receipts.

The State covenanted that no other obligations should be made a charge upon the pledged revenue sources unless the receipts from these sources were adequate to pay one hundred and fifty per cent of the total amortization and interest charges *on all obligations, both present and subsequent*. The State also contracted not to reduce the pledged revenue sources until provisions of the Debt Act were fully carried out. In addition to the revenues, the full faith and credit of the State were also pledged; and all the obligations issued under the Act were exempted from State, county and municipal taxation.

New Expenditures and New Taxes, 1937-1939.

On January 28, 1937, Governor Browning presented five bills to the Legislature to enable the State to take advantage of the Federal Social Security Act which would provide pensions and aids for the needy aged, dependent and crippled children, and the blind. The maximum amount of assistance provided for the needy aged was \$25.00 per month, and the ultimate purpose of the bill was to eliminate that traditional and dismal institution, the county poorhouse. The amount of aid given in each case was to be, within the set limits, determined by agents representing the Federal, State and county governments. Federal contributions supplied fifty per cent, State contributions thirty seven and one-half per cent, and county contributions twelve and one-half per cent of the payments, with the Federal Government also paying the administrative expenses.

In line with Governor Browning's policy of "no revenues, no expenditures," payments under these acts were made contingent upon the amount of revenue available after other fixed expenses of the State were paid. Confederate veterans and widows with State pensions were required to apply for old age assistance under this law.

The General Assembly also increased the State's annual liabilities for public education by \$4,000,000.00 at its 1937 Session, adopting part of a program sponsored by the Tennessee Educational Association, which called for more

grants to elementary and high schools, higher salaries for teachers, minimum terms of eight months for elementary and nine months for high schools, and improved public school library services.

As a result of the new appropriations, the State's expenditures increased rapidly between 1937 and 1939, as the following figures show:

Date	Total Disbursements ¹
1937.....	\$44,926,157.82
1938.....	64,001,310.18
1939.....	73,628,294.75

¹Figures taken from *Comptrollers' Reports*. Fiscal year ending June 30th.

The above figures include net payments made for unemployment compensation, that is, amounts actually disbursed to unemployed workers. They do not include amounts which were added to the Unemployment Trust Fund.

Obviously, since the Federal Government supplied more than half of the "welfare expenditures," not all of the increased spending required additional State revenue. There were also large increases in appropriations for education, educational and institutional buildings and equipment, as well as greater payments into the sinking fund, however, and these made it necessary to secure more income.

The Revenue System of 1937-1939. The revenue changes made during this period, especially in 1937, set up the tax system which has, as a whole, been in effect until the present time. For this reason, tax administration and the revenue sources of this period will now be described in some detail.

Governor Browning declared that the Constitution made it impossible to have "any scientific tax base for Tennessee."⁴ He declared himself definitely against a general retail sales tax, and he opposed higher gasoline and tobacco tax rates. "This leaves us," he then concluded, "the 'privilege' taxes."⁵ Under this authority, the Governor proposed numerous important new taxes. He also recommended higher effective rates for the corporation excise tax and the stock and bond income tax. He caused to be introduced the first General Revenue Bill since 1931, and urged the Legislature to make a minimum of amendments to it, since, he said, "only an expert in the subject knows its provisions."⁶

⁴Message to Second Extra Session, 1937, *Senate Journal*, p. 601.

⁵*Ibid.*

⁶*Idem.*

*Revenue Bill of 1937.*⁷ This Bill listed one hundred and seven items designated as "privileges" on which taxes were to be collected by the County Court Clerks. However, since several of the subdivisions of these items were actually taxes on additional activities, there were really more than one hundred and fifty privileges. All of these might be taxed by county and municipality, as well as by the State.

In addition, there were more than twenty privileges taxable by the State alone. Administration of these taxes (with exceptions to be noted) was in the hands of the Department of Finance and Taxation.

Privilege Taxes Collected by County Court Clerk. Among the list of taxes collected by the County Court Clerks, most were graduated, as previously, on the basis of the population of counties or cities. Some were based upon the number of employees in a shop or office, or the number of offices or branches. Auto terminals were now taxed on the basis of the number of vehicles which could be accommodated. Parking-lot taxes were graduated both on the basis of capacity, and population. Rates on bath-houses and check-rooms varied with the charge imposed for the service. Carnivals, circuses and menageries were heavily taxed on a multi-subject basis, apparently with some non-fiscal motives in mind. Retail tobacco dealers paid \$5.00 to \$50.00, and wholesalers paid \$10.00 to \$50.00, depending upon population, but merchants with limited stocks of tobacco, paying Merchants' Taxes, were exempted. Collection, adjusting and forwarding agencies were taxed one-third of one per cent of gross collections, with a minimum tax of \$100.00. Construction companies paid from \$10.00 to \$200.00, on the basis of annual contracts. Hotels and tourists camps paid according to the number of rooms for rent, and the charge. Ice manufacturers now paid upon the basis of tons produced and sold per day. The marriage "privilege" license was now \$2.00, still entirely earmarked appropriately enough, for education.

Reference to the description of the privilege tax "system" of thirty years before (in Chapter VI) will indicate that little improvement had taken place, so far as the local privilege taxes collected by the County Court Clerks were concerned.⁸ The correlation with "ability to pay" was still remote or non-existent. More, perhaps, than anything else, this inequitable, irritating and illogical "jungle" of "privi-

⁷Public Acts of 1937, Chapter 108.

⁸Cf. ante, p. 128.

lege taxes" indicates the distorted results produced by the inflexible Constitution.

Merchants Privilege Tax. The 1937 Revenue Act levied upon merchants a privilege tax of 15c per \$100.00 on "average capital invested," with the same general definition of "capital" as before.⁹ Counties and municipalities might levy additional rates not in excess of the State rate, and one-half of the receipts from the State levy was retained by the counties for school purposes. The eight-cent *ad valorem* tax imposed by the State after 1931, was also levied on the merchants' "capital." A minimum rate of \$5.00 was provided, and if the "capital" did not exceed \$800.00, a flat privilege tax of \$7.50 was levied by the State and no *ad valorem* levy was then imposed. Merchants were still "bonded" and required to file schedules and pay taxes to the Clerk at the end of twelve months of operation.

Transient merchants were now taxed \$350.00 per year. Vending machines (mechanical merchants) were taxed \$7.50, except penny vendors, which were taxed \$1.00. Peddlers' taxes were now graduated according to the kind of product being sold and the method of transportation. Impelled, perhaps, by nostalgia for the "good old days," rates were lower for peddlers still using horses than for those riding in cars and trucks.

Printing and lithographic plants were taxed on the basis of "a fair value of plant and equipment," with rates varied according to the size of the city—but this was considered a privilege tax and not an *ad valorem* tax.

The tax on transfers of realty was \$1.50 per \$1,000.00 of consideration received. Mortgages were taxed 10c per \$100.00, but \$2,000.00 were exempted.

Restaurants and cafes were taxed on a dual basis, depending upon the population of the community in which located and the number of seats. Cafes without seats, and filling stations selling sandwiches paid at a different rate.

Cold storage, warehouse and elevator companies paid one tax measured by the square-feet of storage space, plus an additional tax determined by the population of the county.

Manufacturers of patent medicines, toilet preparations and the like, were required to pay \$25.00 per \$1,000.00 of aggregate gross sales.

⁹Cf. *ante*, "Merchants Assessment," 1907, p. 117.

Privilege Taxes Collected by Department of Finance and Taxation and other State Offices. The privilege taxes previously mentioned were collected by the County Court Clerk in each county. Of much greater importance as revenue-producers were the privilege taxes levied on the more important businesses and principally administered and collected by the Department of Finance and Taxation. These privileges were levied by the State alone, and counties and municipalities were barred from their use.

Gross Receipts Taxes of 1937. At Governor Browning's recommendation, the most important change in privilege-taxation made in 1937 was the levying of a gross receipts tax on public utilities and other enterprises.

A three per cent gross receipts tax was imposed on sellers of gas, water, and electric power and light (except manufacturers of gas and distributors of natural gas, who were taxed at one and one-half per cent). Exemptions were granted to publicly owned companies or systems. Credits against this tax were granted for payment of the State Franchise and Excise taxes. Distributors of electric current were granted an exemption on the first \$10,000.00 of gross receipts*

An annual tax of one per cent was levied on the tangible and intangible value of private car companies (stock cars, fruit cars, refrigerator cars and the like) and was in addition to all other taxes levied and assessed by the State. This tax was payable to the Comptroller.

All public utilities other than those specifically mentioned above, were subject to a three per cent gross sales tax, with credits allowed for payments under Franchise and Excise taxes.

Telephone and telegraph companies were subject to the three per cent gross receipts tax, on business done within the State, but were granted an exemption upon \$10,000.00 of gross receipts, and credits were granted for Franchise and Excise tax payments. Municipalities were permitted, in addition to the above tax, to impose a "rental tax of twenty-five cents (25c) on each telephone and telegraph pole standing on the streets, or along the streets of such city."

Theatres, motion picture and vaudeville shows were also subjected to the three per cent gross receipts tax by the

*Gross receipts of \$5,000 exempted for electric and water companies, Ch. 112, Acts of 1943.

1937 Revenue Law, with credits for Franchise and Excise tax payments. However, a non-fiscal use of the taxing power appeared in the 1939 amendment that the tax should be four per cent if "bank nights," "lotteries" or similar sales of "chances" should be employed by the amusement company.¹⁰ A further amendment in 1941 drew an even finer moral point by providing that the "penalty tax" of four per cent should *not* apply to picture shows which "now have a Sunday show which has been voted by three-fourths of the people of any municipality, and who now charge less than fifteen cents (15c) admission."¹¹

Transportation companies (meaning railroad, airplane, boat, barge, express, street railway, buses, motor vehicle freight and contract carriers) were also required to pay the three per cent gross receipts tax.

Chapter 157 of the *Acts of 1937* amended the gross receipts tax as it applied to "domestic street car companies engaged solely in operation of transportation systems." *In lieu* of all other State, county or municipal privilege taxes, the following taxes on each mile of operating roadway should be collected by the County Court Clerk for the State, and the same taxes might be imposed by the municipality:

Population less than 20,000.....	\$ 5.00
Population 20,000 to 49,999.....	10.00
Population 50,000 or over.....	20.00

The gross receipts tax on transportation companies expressly exempted casual and agricultural truckers, and taxicab operators, which were taxed instead at flat rates per vehicle.

In addition to the gross receipts tax, bus companies were required to pay the Highway Mileage Tax (commonly called the Compensation of Use of Public Highways Tax) described in Chapter X.¹² Two years later, however, this Mileage Tax was repealed.¹³

¹⁰Public Acts of 1939.

¹¹Public Acts of 1941, Chapter 51, Section 21.

¹²Cf. *ante*, page 197.

¹³Public Acts of 1939, Chapter 94.

Other State-Collected Privilege Taxes, 1937-1939.

Under the new Revenue Bill the following taxes and rates were levied:

A chain-store tax was levied in 1937, which required a tax payment of \$3.00 per one hundred square feet of floor space, and was in addition to all other privilege taxes for which a chain store was liable.

Ferries operating in competition with state-owned toll bridges were required to pay \$25.00 per year plus eight per cent of gross receipts.

News companies were taxed \$50.00 to \$750.00, depending upon the number of miles of railroad on which they did business.

A privilege tax of \$4,000.00 per year was levied on sleeping car companies, and a tax of \$2,000.00 on dining car, chair car and other such extra-charge car-companies.

Insurance Company Taxes. The 1937 Revenue Law placed a tax of two and one-half per cent on insurance companies. This was amended in several ways in 1939, and under the latter law "foreign" insurance companies paid two and one-half per cent, but domestic insurance companies, and foreign insurance companies domiciled in the state, were exempted from payment of this tax. Insurance agents were required to pay \$10.00 to \$20.00 per year, depending upon the population of the county and whether or not solicitation was intra-county or inter-county.

Fire insurance companies were also required to pay the one-half of one per cent on gross premiums to support the fire marshals' law.

Annuity companies were taxed one and one-half per cent on gross premiums paid by or for citizens of the state. Self-insurers and workmen's compensation insurance companies paid four per cent.

All receipts from insurance companies under these taxes were paid to the Commissioner of Insurance and Banking.

Corporation Charter and Filing Fees. The Revenue Act of 1937 made no change in these fees. Original charter fees imposed a rate of 1c per share on the first 20,000 par-value shares (with a rate of $\frac{1}{2}$ c on no-par shares), and a rate of $\frac{1}{2}$ c on par-value shares in excess of 20,000 ($\frac{1}{4}$ c for no-par shares).

A flat rate of \$300.00 was charged foreign corporations qualifying to do business in the state.

Every corporation, domestic or foreign, was required to file with the Secretary of State, by July 1st each year, a schedule or statement giving detailed information as to the affairs of the corporation, including a statement of gross receipts for the previous year. The corporation was then allowed to pay a "filing fee" on either of two bases: (a) a fee of one-half of one per cent of the gross intrastate receipts, or (b) a fee of \$5.00 if the actual capital stock of the corporation is \$25,000.00 or less; \$10.00 if capital stock is \$25,000.00 to \$50,000.00; \$20.00 if capital stock is \$50,000.00 to \$100,000.00; \$30.00 if capital stock is \$100,000.00 to \$250,000.00; \$50.00 if capital stock is \$250,000.00 to \$500,000.00; \$100.00 if capital stock is \$500,000.00 to \$1,000,000.00; and \$150.00 if capital stock is \$1,000,000.00 or over. A minimum tax of \$25.00 was stipulated in any case.

These corporation filing fees were allowed as credits against the corporation excise tax. The tax did not apply to state banks and trust companies. Fees received by the Secretary of State were to be reported and paid in to the Treasurer each quarter.

Receipts from the corporation filing fees for the fiscal year ending June 30, 1938, were \$227,913.11.

Chapter 79 of the *Public Acts of 1939* transferred the collection of this tax from the Secretary of State to the Department of Finance and Taxation.

Other Taxes, 1937-1939.

The Revenue Act of 1937 placed on Building and Loan Associations a tax of 25c per \$100.00 of capital stock, surplus and undivided profits.¹⁴ The tax applied also to Federal Savings and Loan Associations, Investors Syndicates and similar organizations, though only to that portion of capital or owners equity invested in the state. The tax was payable to the Commissioner of Insurance and Banking.

A state privilege license tax of \$300.00 was imposed by the law of 1937 on companies selling sewing machines through agents in Tennessee. The license was procured from the Commissioner of Finance and Taxation. Agents and dealers actually selling in the state were required to pay

¹⁴*Public Acts of 1937*, Chapter 108, as amended by Chapter 192.

\$50.00 per year for a license. Merchants handling machines of companies which had paid the license-tax, were not required to pay.

Credit Unions were required to pay an annual privilege tax of \$10.00.

The beer tax of 1933 was amended in 1935 and again in 1937. Under the Revenue Law of 1937, the tax was set at \$1.70 per barrel of thirty-one gallons, instead of \$1.20, as before.¹⁵

Chapter 84 of the *Public Acts of 1937* placed a new tax of from 3c to 25c on raw hides. This was collected by the Game and Fish Director through stamps, and all receipts were used by this office.

A tax of three per cent of the intended retail sales price of shotgun shells and cartridges was also imposed in 1937.

Liquor Taxes, 1937-1939. Chapter 193 of the *Public Acts of 1937* provided that, when approved by a majority of the voters, the manufacture of liquor "for export" might be allowed (even though the county itself was "dry"). In this case, a tax of \$1,000.00 each might be imposed by State, county and municipality. Under this unusual law, a distillery was producing whiskey for sale outside of Tennessee while the State itself remained "dry" until 1939, when the "Local Option Law."¹⁶ permitted the sale of liquor if approved by a county referendum. Privilege taxes imposed as a result of "repeal" included a manufacturer's license-privilege of \$1,000.00 per year, a wholesale dealer's license tax of \$500.00 per year, and a retail dealer's license of \$250.00 per year. Liquor, by means of affixed stamps, was taxed 70c per gallon on spirits and 25c on wine.

Fifty per cent of the net revenue from sale of liquor stamps and all receipts from seized contraband were allocated to the counties, seventy-five per cent on the basis of population and twenty-five per cent on the basis of area.

Administration and collection of these taxes were in the Department of Finance and Taxation. The liquor taxes produced \$1,513,983.94 for the fiscal year ending June 30, 1940 and \$1,450,642.41 for fiscal 1941.

Corporation Excise Tax Increased. While the Legislature did not increase the corporation excise (profits) tax to four percent, it did increase the rate to 3.75 per cent,

¹⁵Public Acts of 1937, Chapter 84.

¹⁶Public Acts of 1939, Chapter 49.

and eliminated credits for certain other taxes and fees, previously allowed.¹⁷ The tax applied to the proportion of net earnings originating in the state, as computed by three ratios: (a) The ratio of real and personal property with *situs* in the state to the total real and personal property of the corporation; (b) the ratio of the cost of manufacturing in Tennessee, to the total cost of manufacturing; and (c) the ratio of gross sales in Tennessee to total gross sales. Similar allocation procedures were followed for non-manufacturing corporations doing interstate business.

Insurance companies paying the two and one-half per cent gross premium tax previously noted, were permitted to take this as a credit against the corporation excise tax; and banks were allowed a credit for fees paid to the State Banking Department.

The tax was payable on July 1st each year, and a penalty of one per cent per month, plus six per cent interest on the amount due, was imposed after one month's delinquency. Administration continued under the Department of Finance and Taxation (Franchise and Excise Tax Unit). Since 1937, no changes have been made in this law.

Stock and Bond Income Tax Rates Increased, 1937. Governor Browning proposed increase of the income tax on stocks and bonds from five per cent to seven per cent on income derived from non-Tennessee corporations, with the rate of five percent applying to income derived from Tennessee corporations. He also proposed that the State take all these receipts, instead of distributing forty-five per cent to counties and municipalities, as had previously been done.

The Legislature did not accept the Governor's proposals in full. As actually passed, the tax was increased to *six per cent* on all income received from stocks and bonds by individuals, partnerships, associations, trusts, and corporations, *except* income received from corporations which had seventy-five per cent or more of their property assessed in Tennessee, in which case the tax was *four per cent*.

Income received from stocks of certain Tennessee corporations (such as banks) which were not exempted from the *ad valorem* tax, was of course not subject to this tax. Income received from bonds of the State and its political subdivisions, and from U. S. Government bonds, was also exempted.

¹⁷Public Acts of 1937, Chapters 99 and 176.

The income-tax rates set in 1937 have continued down to the present time.

Changes in the Inheritance Tax, 1937. In 1929, collection of the inheritance taxes was taken from the County Court Clerks and placed entirely under the Department of Finance and Taxation.¹⁸ In 1937, the rates were increased on both direct and indirect inheritances or transfers.¹⁹ This law distinguished between *Class A* (direct heirs), and *Class B* (others). Class A recipients received an initial exemption of \$10,000.00, and paid rates of from one per cent on taxable amounts between \$10,000.00 and \$25,000.00, to a top rate of seven per cent on all above \$500,000.00. Class B estates were given a \$1,000.00 initial exemption, with rates from five to fifteen per cent applying to the taxable income (maximum on \$250,000.00 or over).

Under this law, the County Court Clerk was directed to secure a bond for payment of the tax from the executor of the estate prior to granting letters of execution, reporting at the same time to the Commissioner of Finance and Taxation, who thereafter was responsible for assessment and collection of the tax.

Schedules of information were required of the executor within sixty days of the date of decease, and the estate was valued at date of decease, rather than at time of legal transfer (as formerly). The tax was now due within six months of decease, and a penalty of six per cent accrued after that time.

In 1939, a Gift Tax Law was passed.²⁰ Under this law, gifts, if made to Class A recipients (direct relatives), were given the same exemption and paid the same rates as though they had been transferred by inheritance; while gifts to Class B recipients were given an exemption of \$5,000.00 and then taxed at the same rates as though transferred by will or inheritance to Class B recipients.

RECEIPTS FROM DEATH AND GIFT TAXES, 1925-1945¹

1925.....	\$ 304,932.46
1930.....	326,790.29
1935.....	532,093.49
1940.....	853,662.55
1945.....	1,052,435.76

¹Data from *Condensed Financial Statements, 1925-1935*; from *Reports of the Department of Finance and Taxation, 1940-1945*.

¹⁸Public Acts of 1929, Chapter 29 (Extra Session).

¹⁹Public Acts of 1935, Chapter 41; Public Acts of 1937, Chapter 12.

²⁰Public Acts of 1939, Chapter 137.

Auto Registration Fees. By the law of 1915, auto registration fees were based upon passenger-capacity of the vehicles.²¹ By the law of 1919, this was changed to a fee of 50c per horse-power for passenger vehicles, and 50c per horse-power plus an additional fee of from \$15.00 to \$50.00, based upon carrying capacity, for trucks.²² Half of the receipts were allocated to the counties under the 1919 law. County Court Clerks acted for the Highway Department in issuing the licenses and license-plates. Beginning in 1923, the license-plates were manufactured by State prisoners.

Only minor changes were made during the 1920's and early 1930's. In 1933, however, the fee was reduced to 37½c per horse-power for cars and motorcycles, and trucks were now charged 27½c per rated horse-power, plus \$7.50 to \$50.00, based upon carrying capacity.²³

In 1935, a new basis for charges was set up.²⁴ Passenger cars were charged a fee based upon weight, the amount being \$7.50 for cars of not over 3,500 pounds, and \$10.00 for cars of more than 3,500 pounds. Trucks were now charged \$15.00 to \$125.00 on the basis of maximum gross weight. Tractors were charged \$25.00, but purely agricultural users were exempted. Other vehicles used entirely for farm purposes were charged only fifty per cent of the regular rate. Motor vehicles for hire were charged the regular fees, plus \$2.00 for each passenger-seat. Dealers paid \$50.00, plus \$1.00 for each set of dealer's plates. All licenses must now be procured by April 1st.

Collection of the auto license fees was by the Department of Finance and Taxation after 1923, although the County Court Clerks acted as local agents in issuing the licenses and plates and collecting the fees.

During the 1920's the net receipts from license fees were allocated entirely to the Highway Department. The Debt Retirement Act of 1937 pledged half of the fees to the Sinking Fund, if needed to meet the terms of the Act. If not so needed, all receipts except collection costs and ten per cent for the Highway Patrol were to go to the Highway Department.

Except for minor modifications in 1939, the auto license fee system has not been changed since 1935.

²¹Cf. *ante*, page 144.

²²Public Acts of 1919, Chapter 99.

²³Public Acts of 1933, Chapter 97.

²⁴Public Acts of 1935, Chapter 55.

RECEIPTS FROM AUTO REGISTRATION FEES, 1935-1941¹

1935.....	\$3,635,953.33
1936.....	3,446,639.57
1937.....	3,724,241.37
1938.....	3,948,626.43
1939.....	4,346,437.24
1940.....	4,901,787.61
1941.....	5,835,149.34

¹Figures from Reports of the Department of Finance and Taxation. Fiscal year ending June 30th.

Tobacco Sales Tax Modified. Changes made in the rates of the tobacco taxes in 1937 have continued without important alterations down to the present time. The rates were set as follows:²⁵

If retail price is less than one cent per cigarette, the rate is 1½ mill per cigarette; if retail price of cigarette is one cent or over, the rate is fifteen per cent of the selling price; for "Little Cigars," the rate is 1c for each ten cigars; for regular cigars, the rate varies from \$1.00 to \$13.50 per 1,000, depending upon selling price; for manufactured tobacco and snuff, the rate is five per cent of retail sales price.

It was believed that the above rates, which were somewhat lower than previous rates, would reduce evasion of the tax and thus increase the revenues. As previously, the tax was levied upon the "first vendor in the state," and such vendors were required to secure licenses from the Commissioner of Finance and Taxation, and affix tobacco stamps to the packages.

RECEIPTS FROM TOBACCO TAXES, 1936-1941¹

1936.....	\$2,357,698.99
1937.....	2,844,863.13
1938.....	2,743,558.91
1939.....	2,524,465.54
1940.....	2,887,293.81
1941.....	3,218,778.54

¹Figures taken from Reports of the Department of Finance and Taxation. Fiscal year ending June 30th.

State Ad Valorem Tax. The State's eight-cent *ad valorem* tax continued to be assessed and collected essentially as it had been for thirty years, the Assessment Law of 1907 still being the legal basis of administration. The regular *ad valorem* tax on real estate and personalty continued to be assessed by the county Tax Assessor and collected by the Trustee. The *ad valorem* tax on public utilities was assessed by the Railroad Commission and collected by the Comptroller. The *ad valorem* taxes on merchants were collected

²⁵Public Acts of 1937, Chapter 133, as amended by Chapter 201, Chapter 311, and Chapter 7.

by the County Court Clerk, who also continued to collect the other locally administered privilege-license taxes.

RECEIPTS FROM THE STATE *AD VALOREM* TAX AND
PRIVILEGE TAXES, 1937-1941¹

	State <i>Ad Valorem</i>	Privilege
1937	\$1,214,802.55	\$1,161,866.09
1938	1,239,211.95	1,252,905.69
1939	1,225,230.56	1,231,716.46
1940	1,285,673.74	1,301,417.37
1941	1,242,015.86	1,351,168.91

¹From Report of the Department of Finance and Taxation, 1941. Includes only the *ad valorem* taxes collected by the Trustees, and the privilege taxes collected by the County Court Clerks.

Comparison of the proportion of revenues supplied by the State *ad valorem* and privilege taxes in 1924 with the proportion supplied in 1937 shows how completely the State had turned to other revenue-sources.

THE PERCENTAGE OF TOTAL TAX-REVENUES PRODUCED
BY STATE *AD VALOREM* AND PRIVILEGE TAXES
LOCALLY COLLECTED, 1924-1937¹

	1924	1937
Percentage, State <i>ad valorem</i> to total tax-revenues.....	40.5	2.5
Percentage, privilege taxes (local) to total tax-revenues	9.0	2.4
Percentage, <i>ad valorem</i> and privilege to total.....	49.9	4.9

¹Percentages computed from figures taken from *Condensed Financial Statement*, 1936, page 18, for the year 1924; from figures taken from *Report of the Department of Finance and Taxation*, 1941, page 29, for the year 1937. Fiscal years end June 30th.

Thus, between 1923 and 1937, Tennessee moved away from a system of taxation based heavily upon the property tax. The inability to adopt personal-income and other taxes based upon "ability," however, due to the inflexible Constitution, resulted in an increasing use of sales-type taxes, many of them regressive in effect and hindered the abandonment of the multifarious privilege taxes.

Chapter XII

THE WAR PERIOD OF TENNESSEE FINANCE 1939-1946

While relatively few changes in taxes or tax-rates were made between 1939 and 1946, there were important developments relating to expenditures, debt and administrative organization. Some of the trends observable at this time were common to many of the other states of the Union, but others were peculiar to Tennessee.

Increase in Tax Revenues. The improved economic conditions, which began in 1933 and continued through the late 1930's, were followed by the feverish activities of the War Period. As an important war-production area, the Tennessee Valley was quick to feel the effects of military preparations. Each year between 1937 and 1946, State revenues showed an increase over the preceding year, except for the fiscal year ending June 30, 1943. With the exception of the gasoline tax, from which the receipts showed considerable declines for the fiscal years ending June 30, 1943, 1944 and 1945, nearly every revenue source of importance showed sizeable gains. The following table shows total collections of the Department of Finance and Taxation, and collections from the principal sources of revenue during this period.

TOTAL AND SELECTED REVENUE COLLECTIONS,
DEPARTMENT OF FINANCE AND TAXATION, 1937-1946¹
(000 Omitted)

Date	Total	Gasoline	Motor Vehicle	Corporation Excise	Income	Alcohol	Fran- chise
1937	\$33.263	\$17.999	\$3.724	\$.677	\$.856	\$	\$.628
1938	38.526	18.579	3.948	2.123	1.712		1.762
1939	39.006	18.678	4.346	1.783	1.385	.270	1.677
1940	41.847	19.539	4.901	1.813	1.652	1.513	1.681
1941	46.810	22.528	5.835	2.158	1.776	1.450	1.629
1942	51.967	24.681	5.951	3.046	1.802	1.707	1.625
1943	49.719	20.589	5.646	3.493	1.647	2.544	1.744
1944	51.730	21.168	5.651	3.670	1.729	2.243	1.994
1945	53.030	21.431	5.829	3.733	1.820	2.744	2.123
1946	65.354	28.110	6.828	3.614	1.765	3.576	2.160

Date	Tobacco	Beer	Inspection Fees Oil and Gas	Gross Receipts Tax
1937	\$2.844	\$.556	\$1.288	\$.134
1938	2.743	.586	1.307	1.118
1939	2.524	.535	1.313	1.315
1940	.2887	.584	1.409	1.297
1941	3.218	.683	1.563	1.118
1942	3.820	1.020	1.880	1.414
1943	4.502	1.266	1.583	1.761
1944	5.328	1.305	1.668	1.760
1945	4.731	1.316	1.709	2.039
1946	7.059	1.446	2.137	2.004

¹Figures for 1937-1944 taken from *Report of the Department of Finance and Taxation*, 1944, pages 24-25. Figures for 1945-1946 taken from *Monthly Statement of Revenue Collections*, issued by the Department of Finance and Taxation, June, 1946, Pages 9-12. Fiscal year ending June 30.

It will be noted from the above table that although the Gasoline Tax showed a sizeable decline in 1943-1945, it more than recovered by the fiscal year ending June 30, 1946. The decline was, of course, due to wartime rationing of gasoline. Similarly, the Auto Registration Fees declined somewhat in 1943-1945 as compared to 1942, and the Oil and Gasoline Inspection Fees showed minor declines in the same years. In each of these three cases, however, collections in 1946 exceeded those of any previous year in the State's history, with the Gasoline Tax producing approximately three and one-half millions more than in 1942. The Tobacco Tax also showed a remarkable increase in yield during this period, producing over four millions more in 1946 than it had produced in 1937.

Total tax revenues for the fiscal year ending June 30, 1946, it will be noted, were approximately twice the total for the fiscal year ending on June 30, 1937.

While some of the changes in revenue receipts were due to alteration of rates, the more decisive factor was the "war boom" and the wartime controls.

Reduction of Non-Tax Revenues. While it was true that total State tax revenues showed a large increase during the period 1937 to 1946, other receipts showed such declines that the State's total income was fairly stable during the war years. The following table gives the total receipts from the years 1936 to 1946, inclusive:

TOTAL STATE RECEIPTS, 1936-1946¹

1936.....	\$51,072,463.44
1937.....	48,287,656.58
1938.....	71,908,272.13
1939.....	63,924,010.79
1940.....	72,752,465.91
1941.....	71,499,050.95
1942.....	81,482,718.67
1943.....	74,066,225.99
1944.....	76,306,647.60
1945.....	78,716,224.08
1946.....	99,819,396.68

The increase of nearly \$10,000,000.00 in 1942, as compared to 1941, resulted from several factors. The gasoline, corporation excise, tobacco, and beer taxes showed substantial increases due to wartime activity. Federal aid for social security and welfare increased nearly four millions.

¹Figures taken from *Statements of the Division of Accounts, 1937-1939*; from *Statements of the Department of Accounts, 1939-1946*.

The decline in Federal aid for highways and the decrease of gasoline tax collections in 1943 explain the reduction of this year's total, compared to 1942.

The increase of more than \$19,000,000.00 in 1946, as compared to 1945, was due largely to two factors: First, gasoline, motor vehicle, and tobacco taxes alone produced an increase of more than \$10,000,000.00; and, second, receipts from the Unemployment Trust Fund for disbursement to unemployed workers increased more than \$9,000,000.00.

The three largest items of non-tax receipts were from (1) Highway Construction Aid, (2) Social Security, and (3) Unemployment Compensation Benefits. From 1936 to 1946, these produced as follows:

PRINCIPAL EXPENDABLE RECEIPTS
1936-1946

Year ¹	Highway Aid	Social Security ²	Unemployment ³ Compensation
1936	\$4,342,714.63	\$1,309,470.82	\$
1937	4,880,080.41	1,024,292.46	.....
1938	4,827,543.65	4,952,313.00	3,500,000.00
1939	3,960,514.82	6,087,594.18	5,150,000.00
1940	4,016,196.42	7,183,445.30	5,474,000.00
1941	2,587,725.88	8,917,434.72	5,330,000.00
1942	3,829,030.75	10,446,035.33	5,945,000.00
1943	2,456,347.71	11,087,310.03	3,400,000.00
1944	2,521,310.14	12,702,400.88	1,345,000.00
1945	3,517,125.69	13,929,117.91	1,420,000.00
1946	2,024,861.59	13,624,598.21	10,850,875.00

¹Fiscal year ends June 30th.

²Old age pensions, aid to dependent children, and aids to the blind. Funds supplied chiefly by Federal aid, partly by county aid.

³These are amounts actually received from the Unemployment Compensation Trust Fund, and represent benefits to be paid unemployed workers, plus administrative expenses.

Reduction of State Debt and Accumulation of Reserves.¹

The third decided trend of this period was the reduction of the debt and the accumulation of surpluses. Between the passage of the Debt Reduction Act in 1937, and June 30, 1946, the total State debt (including County Highway Debt assumed by the State) was reduced from \$131,231,361.95, to \$79,046,122.49. This represented a reduction of \$52,185,239.46. Actually, more debt than this was retired, since during the period new bonds to the amount of \$15,034,500.00 were issued. Gross retirements of debt during the nine-year period, therefore, were \$67,219,739.46.

¹Figures under this topical heading taken from *Statement of the Department of Accounts* for period ending June 30, 1946.

The General Fund had an accumulated surplus of \$14,-166,389.42 by June 30, 1946. Compared to the surpluses of other States of comparable size and wealth, this was not large, but considering the rapidity of debt retirement, a larger surplus was hardly to be expected.

The Highway Fund, on the same date, had a total of \$44,020,312.11 in surplus *plus* reserves. Of this, \$18,260,-574.76 was accumulated surplus, \$14,866,627.52 was Reserve for Contract Obligations, and \$9,215,358.74 was Unallotted Federal Aid Reserve. Thus the Highway Department could look forward to considerable expenditures without additional revenues being required.

Reserves of \$4,297,845.32 were accumulated in the Sinking Fund, ear-marked for bond maturities, interest, bonds called but not yet presented, and similar obligations.

In the Unemployment Compensation Trust Fund, held as U. S. bonds by the Federal Treasury, and ear-marked for unemployment compensation benefits, there was \$87,-537,567.06 on June 30, 1946, which apparently was adequate to pay benefits for several years of severe unemployment. Other funds and special deposits totalled \$8,876,-667.69.

Thus, on June 30, 1946, total Surplus, Reserve and Special Deposit Funds were \$159,634,060.41. On June 30, 1937, the total had been \$24,673,416.59.

As compared to 1937, then, the State in 1946 held \$134,-960,644.82 more to the credit of the various funds. Adding to this the amount of the debt reduction (\$52,185,239.46) for the same period, it would appear that on June 30, 1946 the State was better off financially to the amount of \$187,145,884.28 than it had been on June 30, 1937. Obviously, however, this statement over-simplified the situation, and is given merely to characterize the trend of the War Period. Taken on this basis, it may be concluded that nearly two years' income had been saved during the past decade.

The reasons for this trend were both external and internal. Externally, World War II explained much that happened in Tennessee, and similar results appeared in most of the other States of the Union. Another external influence was the beneficial economic effects to the State which resulted from the developments of the Tennessee Valley Authority. Internal influences were the improved organization of government, the superior quality of political leadership, and

the greater interest shown by groups of the citizens in the affairs of the State.

Reorganization. A fourth trend of the War Period was the continuation of the process of governmental re-organization, which began in 1923. By now it seemed that each Governor felt impelled to contribute to the government by modifying its structure. Governor Prentice Cooper (1939-1945) came to his office with a background of education and experience which well fitted him to continue and enlarge the progressive measures which had previously been begun under Governor Peay, Governor McAlister, and Governor Browning. Cooper continued the policy of debt retirement and expenditure control, with the results noted in the preceding topic. He also favored expansion of educational, welfare and promotional expenditures.

In his first regular *Message* to the Legislature, Governor Cooper recommended the adoption of the Constitutional Amendment to permit the levying of an income tax, which had been proposed by the 1937 Assembly. This amendment would also provide more adequate compensation for members of the Legislature.

In the same address, Cooper proposed modifications in the Reorganization Bill of 1937, and these were enacted during this Session.

*The Reorganization Law of 1939.*² This law divided the Department of Institutions and Welfare into two Departments, the Department of Institutions, and the Department of Public Welfare. It also abolished the Department of Administration.

Under the new plan of organization, there were ten full-fledged Departments, headed by Commissioners responsible to the Governor, and forming his official Cabinet. The functions of the former Department of Administration were largely assumed by a number of quasi-departments or bureaus which were now made virtually a part of the Governor's office. These quasi-departments, headed by Directors, were: (a) The Department of Accounts, (b) the Department of the Budget, (c) the Department of Local Finance (still dormant), (d) the Department of Personnel, (e) the Department of Purchasing, and (f) the Department of Safety. The State Planning Commission and the Adjutant General's Office were also included in the group of bureaus or quasi-departments attached directly to the

²Public Acts of 1939, Chapter 11.

Governor's office. It will be noted that most of the quasi-departments were "staff agencies" performing services for other departments or agencies, while the regular ten Departments were largely engaged in performing direct or "line services" for the State. Undoubtedly this new plan gave to the Chief Executive facilities and agencies which enabled him to control and direct the State's affairs more closely than ever before.

The membership of the Funding Board was altered somewhat by eliminating the Commissioner of Administration (whose office was abolished), and including the Comptroller of the Treasury instead.

The Reorganization Act of 1939 failed to include a number of commissions, boards and agencies under any of the departments or quasi-departments, however, and to this extent left several "loose ends," although the inflexible Constitution made this inevitable to some extent. The Department of State, the State Treasurer, the Department of Audit (Comptroller), and the State Election Commission were directly under the Legislature. The three-man Railroad and Public Utilities Commission was popularly elected.

The Reorganization Act of 1939 also increased the Governor's power over personnel by giving him discretion to increase, decrease or terminate the compensation of employees, within limits set by the Legislature.

Organizational Changes since 1939. Upon the recommendation of Governor J. N. McCord (1945-49) in 1945, two new quasi-departments were added to the group created by the Reorganization Act of 1939,—the Department of Veterans Affairs, and the State Property Administrator. In the same year, a new full-fledged Department of Employment Security, headed by a Commissioner, was created, to supervise and administer the Unemployment Compensation System, which had formerly been in the Department of Labor. It was also charged with the task of helping to stabilize employment in the State by means of studies and recommendations and through an employment agency. In addition to the creation of this new department, one of the "quasi-departments" which had formerly been a part of the Governor's office was now raised to the status of a full department. This was the Department of Safety (Highway Patrol), and the head of this department now became a commissioner and a member of the Governor's Cabinet.

Other Developments, 1939-46. Governor Cooper informed the Legislature in 1939 that the transfer that year of the properties of the privately-owned Tennessee Electric Power Company to the Federally-owned Tennessee Valley Authority would produce serious losses in revenue to several counties and municipalities, as well as to the State. Six per cent of the area of Tennessee was now owned by the Federal Government.

The original T.V.A. Act of 1933 had provided that this agency should pay an amount equal to five per cent of the gross proceeds from the sale of hydro-electric power, as an *in lieu* tax, to the state in which the power was generated. This payment was for the purpose of compensating the states for losses from land-inundation resulting from the construction of T.V.A. dams, as well as for the loss of revenue which would have been collected if the dams had been privately owned. Under the provision of this section of the original act, Tennessee received \$361,505.00 between 1933 and 1940, inclusive.³

With the rapid expansion of the T.V.A. which resulted from its purchase of the extensive holdings of the Tennessee Electric Power Company in 1939, it became necessary to amend the original *in lieu* tax-payment provisions in order to protect the revenues of counties and municipalities, since, after this transfer, not only were the hydro-electric plants, steam generators and transmission lines owned by the T.V.A., but now much of the local distribution facilities in the state passed into their control. Subsequently, distribution was taken over by municipally-owned systems and rural co-operatives.

Under the amended *in lieu Tax Section 13* passed in 1940, the T.V.A. undertook to make payments directly to the counties equal to the amounts formerly collected from *ad valorem* taxes. Payments were also made to the State which included, as a minimum, amounts equal to former State and municipal taxes. Under this act, a percentage of receipts from gross power sales was allocated for these *in lieu* payments, and this was distributed one-half on the basis of the value of properties and one-half on the basis of gross sales in the State.⁴ Under this arrangement, receipts from the T.V.A. increased considerably.

³Report on Section 13 of the T. V. A. Act, issued by the Tennessee Valley Authority, December, 1944, page 7.

⁴*Ibid.*, page 12.

IN LIEU PAYMENTS FROM THE TENNESSEE
VALLEY AUTHORITY¹
(1941-1944)

Year	State Receipts	County Receipts	Total Receipts
1941	\$246,548.00	\$756,070.00	\$1,002,618.00
1942	509,993.00	783,891.00	1,293,884.00
1943	502,130.00	827,047.00	1,329,117.00
1944	515,088.00	858,047.00	1,373,371.00

¹Report on Section 13 of the T. V. A. Act, issued by the Tennessee Valley Authority, December, 1944, page 7.

The above amounts were substantially in excess of the minimum amounts (based on previous receipts) guaranteed to the State and local governments. Thus, despite the fact that the production and transmission of electric power in the state was entirely under a legally tax-exempt agency of the Federal Government, the State and counties were receiving a substantially increased income from these sources by 1944.

Civil Service Act of 1939. The following statement by the Director of Personnel, under the date of December 14, 1946, summarizes the development and present organization of Tennessee's State Civil Service System:⁵

The first legislation providing for a Merit System of Personnel Administration for the State Service was Chapter 54, Public Acts of 1937 (House Bill 451). This act was passed February 10, 1937, and was commonly referred to as the Tennessee Merit System Act. This was an act to provide for a merit system of personnel administration for the state service; to create and establish a Division of Personnel in the Department of Administration and to prescribe the powers and duties of such a division; to provide certain exemptions from and classifications in the merit system; to provide penalties for the violation of the provisions of this Act; and to repeal certain acts and parts of acts inconsistent with the provisions of this Act.

The first open competitive examinations were given during the latter part of 1938 for positions in the Unemployment Compensation Section of the Department of Labor. This was the only examination program conducted under this Act. It involved approximately 300 positions.

Chapter 221, Public Acts 1939, passed March 10, 1939, established a system of personnel administration for the present State Civil Service. This act is commonly referred to as the Tennessee Civil Service Act. This was an act to establish a system of personnel administration for the State Civil Service; to create and establish a State Civil Service Commission, prescribe its powers and duties; to prescribe the powers and duties of the Department of Personnel; to provide certain exemptions from classifications in the State Civil Service; to provide penalties for the violations of the provisions of this Act; and to

⁵Letter to the author from Bain M. Stewart, Director of the Department of Personnel.

repeal all Acts or parts of Acts inconsistent with the provisions of this Act.

To date, four departments of the State Service are operating under the Civil Service Act by executive order of the Governor. Frequent examinations have been given for all classes of positions in these Departments. Below are listed the Departments under Civil Service, the date of the executive order, and the number of positions involved.

Department	Date of Executive Order	Number of Covered Positions (Approximate)
Public Health	December 1939	900
Public Welfare	December 1939	545
Employment Security	1938 (Exact date unknown)	1100
Safety	August 1941	221
		2766

The approximate number of State employees who are not included within the exemptions set forth in section 7, sub-section (a) through sub-section (h) of the Civil Service Act is approximately 5969.

The approximate number of State employees in this group now included in the Classified Service is approximately 2766. This leaves approximately 3203 State employees who are eligible to be placed under the Classified Service.

Other achievements of the 1939 Assembly included increased appropriations of approximately one-half million per year for education, including provisions for free textbooks for the first three elementary grades, a three million dollar building and improvement program for State institutions, expenditures to combat tuberculosis, and \$600,000.00 additional funds for Social Security.

Between 1939 and 1941, the State Purchasing Department was reorganized by executive order in order to increase standardization and correlation of inter-departmental purchases and supplies. During the same period, interest rates on State bonds declined to a new low, reaching 1.437 per cent for an issue marketed in 1940. Also during this same period, the State abandoned the fiction that the County Reimbursement Highway Bonds were not a part of the direct State debt, and began issuing State bonds to refund the conglomerate county bonds for which the State had assumed responsibility in 1929.

A Division of Gasoline Tax and Oil Inspection was set up in the Department of Finance and Taxation in 1940.

During this biennium—1939-1941—all available Federal highway funds were matched by the State, with a total of

\$10,262,000.00 being spent for roads. Increased expenditures were also made for armories during this period, and in 1940, Governor Cooper set up the Nation's first State Advisory Committee on Preparedness.

The economic recession of 1937-1939 had resulted in fairly large expenditures from the newly-set-up Unemployment Compensation Fund, and greater activity by the Unemployment Service. The sum of \$4,600,000.00 was paid to the unemployed in 1939, and \$6,300,000.00 in 1940. For the biennium 1939-1941, \$14,484,641.57 was paid to the needy aged, blind, and for other welfare purposes. By January, 1941, 56,306 persons were receiving some kind of assistance from the State.⁶

Early in 1943, Governor Cooper expressed fear that gasoline rationing would reduce income from the State's gasoline tax by \$10,000,000.00. Actually, however, the decline proved to be only approximately \$4,000,000.00. In the same *Message*, looking to the future, the Governor stated that "the only way to save Tennessee from disastrous deficits is to leave with the Executive the power to maintain a balanced budget amid fluctuating business conditions, and the power to set up reserves against legislative appropriations."⁷

For the biennium 1943-1945, Cooper recommended "issuing no new bonds and refunding no old ones; no new taxes, except to raise the liquor tax, which is one of the lowest in America."⁸ At the same time, the Governor recommended that one million dollars of new appropriations for social security, and one and one-half millions more for education be authorized for 1943-1945. Due largely to the sharp reduction in expenditures for highway purposes (from \$14,146,734.83 in 1942, to \$7,353,121.19 in 1943, and \$7,570,041.22 in 1944) however, surpluses accumulated in General, Highway, and Sinking Funds, as previously noted.

Poll Tax Controversy. Governor Browning expressed opposition to the poll tax as a pre-requisite for voting on January 4, 1939, as follows: "All seem to be agreed that the poll tax as a requirement for voting should be removed in our State. I heartily concur in this and recommend that it be abolished."⁹

⁶*Message of January 5, 1943, Senate Journal, page 28.*

⁷*Senate Journal, 1943, page 29.*

⁸*Ibid.*, page 30.

⁹*Senate Journal, 1939, page 41.*

Speaking to the same Assembly, Governor Cooper also proposed that the poll tax be abolished as a voting requirement for the primary elections. Stating his belief that the Legislature had no right to abolish payment of the tax as pre-requisite to voting in the final election, however, Cooper recommended a Constitutional amendment to eliminate this requirement. Bills were introduced to abolish the poll tax at this session, and again in 1941, but little effort was expended by the administration to secure their passage, and they were not enacted into law. The Democratic Platform of 1940 supported repeal of the poll tax, as did that of 1942, but the matter was largely neglected until January 5, 1943, when Governor Cooper again recommended repeal of the tax and adoption of a permanent registration law. On April 10, 1944, a Special Session of the Legislature met to pass a law enabling members of the armed forces to vote by absentee ballot without payment of the poll tax.

Finally, in 1943, a bill was approved by the Legislature which eliminated the poll tax. By a vote of three to two however, the Supreme Court of the State invalidated the law on the grounds that the Constitution required the Legislature to impose a poll tax, and required that payment of such poll tax be a pre-requisite for voting.¹⁰

A ruling of the State's Attorney-General in 1941 had held that counties might eliminate their poll tax even though the State's tax remained. This was done by a number of counties, thus reducing the cost of voting from \$2.00 to \$1.00 in such counties.

Other Developments, 1941-1946. Between 1939 and 1943, (until the War restrictions stopped construction) nearly seven millions was spent on buildings and equipment for the State's charitable and penal institutions, and a system of State tuberculosis hospitals was opened in 1943. Stricter Food and Drug Laws were passed in 1943. Greater expenditures were made for Negro education, and in 1943 Governor Cooper reported that "for the first time there has been provided an eight-month term for all Negro education."¹¹

In 1941, provisions were made to extend a uniform accounting system to the counties, contingent upon Legislative authorization of necessary funds.¹² In 1942, by Executive order, a uniform accounting system was installed in all Departments and branches of the State government.

¹⁰Biggs V. Beeler, 180 Tennessee, 198.

¹¹Senate Journal, 1943, p. 9.

¹²Chapter 96.

On the subject of central purchasing, Cooper reported in 1943:

For the first time in the State's history all purchases except a very few emergency purchases such as machinery repairs, medical supplies, and food, are now advertised for open bidding and awards are made to the lowest and best bidder.

Centralized purchasing is now saving the State more than \$600,000 each year, made possible by competitive bidding, term contracts, bulk buying, and anticipation of market changes.¹³

In his last *Message* to the Legislature, following six years in office, Governor Cooper summarized the financial and other developments between 1939 and 1945. He stated that since 1939, one hundred per cent more aid was being extended for Old Age Assistance, twenty per cent more for Dependent Children, sixty-six per cent more (or \$5,270,000 per year) for education. He noted that \$13,243,000, by far the largest amount in the State's history, would be spent in 1945 for education; that teachers' salaries were forty-three per cent higher than in 1939, now averaging \$1,200 per year. He declared also that the number of State employees had been reduced by twenty-six per cent during this six-year period.

Governor Cooper urged the continuation of State planning, which he defined as "the application of intelligent foresight based on available information to the solution of the problems of the State. Planning has always been done by individuals and business. The use of its principles by governments is of more recent origin but is rapidly growing."¹⁴

Other recommendations of the outgoing Governor were: No new taxes until the end of the War; investment of \$6,000,000 of the General Fund Surplus in United States Bonds, to be used for new construction at the State University after the War; increase of University appropriations by \$1,500,000 per year, and increase of expenditures on other State institutions of higher learning; increase in allowances to the aged, blind and dependent children; increase of \$1,500,000 to the State tuberculosis system (above the original \$2,000,000 for original construction), and additional appropriations for agricultural, historical and conservation commissions. He also urged the State to eliminate discriminatory taxation of foreign insurance companies, and this was done by Chapter 3, *Public Acts of 1945*, which was declared to be an act to provide "equal and non-discriminatory taxation of domestic and foreign insurance

¹³*Senate Journal*, 1943, p. 19.

¹⁴*Senate Journal*, 1941, p. 22.

companies alike and to fully comply with the requirements of the Commerce Clause of the Federal Constitution." The new law taxed gross premiums of most insurance companies at two and one-half per cent. Life insurance and annuity companies however, paid one and one-half per cent, and Workmen's Compensation Insurance Companies paid four per cent. All also paid the one-half per cent for execution of the Fire Marshal's Law. He also urged that more be appropriated for factory and mine inspection since:

For the first time in the history of the state more persons are engaged in non-farming industry than were engaged in agriculture.¹⁵

*Teachers Retirement Plan, 1945.*¹⁶ Governor McCord sent a *Special Message* to the Legislature on February 14, 1945, calling for the establishment of a retirement pension plan for the public school teachers of the state. The proposal was based largely upon the findings of a Committee of the Tennessee Educational Association.

Under the law which was passed, teachers contributed five per cent and the State the same amount to a retirement fund. The retirement age was set at sixty years but the teacher might be allowed to continue in service upon request of the employer and with the approval of the Board of Trustees of the Retirement Fund. Teachers with ten years service might also receive pensions (somewhat smaller) when retired because of ill health.

Governor McCord recommended that a reserve fund be set up which would enable payment on an actuarial basis to be begun at once for older teachers who were shortly retiring. However, the Legislature appropriated instead the annual sum of \$1,200,000.00 to cover current costs of the program during the 1945-1947 biennium. Under the provisions of the act, benefits provided to a teacher with forty years of service were less than \$30.00 per month (assuming the teacher had received the average yearly income for rural teachers of \$930.00).

The Retirement System was administered by a Board of eight trustees, including the Commissioner of Education and the State Treasurer.

In presenting his *Budget Message* for 1945-1947, Governor McCord noted that despite continually larger expenditures between 1941 and 1947, increased revenues and the

¹⁵*Senate Journal*, 1945, page 13.

¹⁶*Public Acts of 1945*, Chapter 29.

impoundment of funds had produced surpluses. Revenues increased thirty-four per cent during this period with virtually no new taxes.

As the wartime inflation developed, increased educational expenditures became an inescapable necessity. In addition, teachers showed increasing tendency to organize and exert more concerted pressure upon Legislatures. Following the elimination of Federal price controls in the summer of 1946, the soaring cost of living and the inadequate salaries led to teachers' "strikes" in several parts of the state. Educational expenditures proposed by the Governor for the biennium 1945-1947 were \$36,072,540.00, an average annual amount of slightly over \$18,000,000.00, as compared to an average of just under \$15,000,000.00 for the biennium 1943-1945.

McCord anticipated a reduction in the General Fund surplus by 1947, unless new taxes were provided, and he noted that several bills were introduced in 1945 to divert part of the surplus to the political subdivisions, and other bills were introduced to reduce certain taxes. "The present rate of expenditure," he cautioned, "cannot be extended beyond the present biennium (1945-1947) without the necessity for additional taxes."¹⁷

On December 30, 1946, Governor McCord publicly announced his support of a two per cent sales and use tax, which he estimated would produce approximately \$20,000,000.00 per year.¹⁸ Despite widespread opposition to such a tax—which, when added to the existing taxes would produce a very regressive State tax system—the general feeling was that the educational emergency was so great that no other means were at hand to supply the necessary revenues until the Constitution should be amended.

Rates and Benefits Under the Unemployment Compensation Law.

The Unemployment Compensation Act, passed on December 19, 1936 and going into full operation in 1938, provided for a flat rate tax of 2.7 per cent on payrolls of all employers of eight or more workers. Under this act, workers were entitled to benefits of from \$5.00 to \$15.00 per week, with payments beginning after one week of unemployment. The benefit was based upon the maximum amount of taxable wages received during any quarter of the previous

¹⁷*Senate Journal*, 1945, page 898.

¹⁸*Nashville Tennessean*, December 31, 1946.

calendar year. Payroll taxes were not imposed upon amounts of wages received by a worker in excess of \$3,000.00 per year.

Under a law first passed in 1943 and amended in 1947, a "*merit rating system*" of rates was installed. Under this plan, the employer's tax rate declined from the maximum of 2.7 to a minimum of .75 per cent as a credit was built up to his account in the unemployment compensation fund. After the employer had accumulated a credit equal approximately to 12 per cent of his last annual payroll, the lowest rate applied. It was further provided that if the State's total Unemployment Compensation Trust Fund should exceed \$100,000,000.00, the minimum rate should then be reduced to .50 per cent.

Benefits were set at from \$5.00 to \$18.00 per week by the 1947 law. Persons unemployed because of strikes or lock-outs were not entitled to unemployment compensation unless they could demonstrate to the Commissioner of Employment Security that they had taken no part in the labor dispute.

While the "merit rating system" reduced rates to most employers, it made it more difficult to increase benefits or extend the duration of such benefits.

In 1949, unemployment compensation benefits were increased, as noted in the following chapter.

Chapter XIII

TENNESSEE IN THE POST-WAR ERA, 1946-9

My vision is of a Tennessee, well balanced in agriculture and industry, playing a major role in the fateful years just ahead.¹

The years immediately following World War II were filled with momentous problems for the State of Tennessee, and resulted in economic and political changes of great magnitude.

The problems arose chiefly as the result of two factors. The first of these was the inability of the State, county and city governments to make the usual capital outlays for repair and expansion of roads, streets, bridges, and educational and other institutional buildings and facilities between 1942 and 1946, due to the need of the nation to use all its resources for the prosecution of an "all-out" war. Many highways were used as never before, often by heavy army trucks, but only a minimum of maintenance and new construction was possible. Schools and other institutions, many with inadequate facilities even before the war, were in desperate need of repairs, enlargement or replacement by 1946, while at the same time a wartime increase in the birth rate would soon result in more children to educate.

The second factor which intensified the difficulties confronting the State was the great inflation which developed following the abandonment of price-controls in the summer of 1946. As both public and private segments of the economy scrambled to secure scarce materials to replace the cumulative shortages produced by the war years, the cost of building roads, schools, hospitals and prisons rose to unprecedented heights. Meanwhile, the current operating costs of government mounted as wages and prices spiralled upward.

The public school teachers of the state, traditionally underpaid, finally responded to the hardships produced by the inflation of living costs either by leaving the profession in large numbers or by demanding, even by strikes, higher compensation. Local units of government, primarily dependent upon revenues derived from the already over-burdened property tax, could do little to meet the situation effectively, and turned to the State for help.

Still another influence at work to produce a broadening of the scope and nature of the State's activities and to make

¹From a speech by Governor Gordon Browning, May 15, 1948.

alterations in political, economic and social institutions arose from the fact that history seemed after 1933 to have conspired to thrust Tennessee into world prominence. The T.V.A. experiment in regional development focused national and international attention upon this area, and stimulated the growth of hundreds of new industrial enterprises within the state. The selection during World War II of Oak Ridge as the site of the first atomic city in history even more completely brought Tennessee into the thick of national and international affairs. Among the numerous results of these two developments were that thousands of scientists, technicians, businessmen, and skilled workers were drawn into the state from many parts of the nation. These new citizens brought new ideas and produced a tempering of the political, educational and economic "climate." The older native population was stirred by a sense of increasing awareness of national and international prominence and responsibility and was influenced by its contacts with the newer elements in the population. Virtually all groups soon joined to demand higher educational standards, improved institutional facilities, and a more adequate program of welfare services. Industrialization was producing more unified labor groups who added their voices to the demand for more State services.

Finally, to the potent brew of social ferment was added the effect of the war upon the hundreds of thousands of Tennesseans who spread throughout the nation and the world as members of the armed services or as industrial workers, and who returned after 1945 to their homes with new ideas and new attitudes.

All of these forces for change began to exert a powerful impact upon the political institutions of the state by 1946, giving promise that their influence would be sweeping, significant and permanent.

Great Increase in State Revenues, 1946-9.

Between the fiscal year ending June 30, 1946 and the fiscal year ending June 30, 1948, revenues collected by the Department of Finance and Taxation increased 100 per cent, from \$62,654,893.40 to \$125,342,833.11. For the fiscal year ending June 30, 1949, they exceeded \$130,000,000.00.*

There were two main reasons for the extraordinary increase. The first was the inflationary "boom." Enough of Tennessee's taxes were related to the general price level

*Estimate based on first ten months' receipts.

to reflect a major rise in prices, although other taxes were "specific," That is, so much per unit, like the gasoline tax of 8c per gallon and hence less responsive to inflation. The doubling of the Corporation Excise (income) Tax revenues, which rose from approximately \$3.5 millions to \$7 millions, reflected the large postwar increase in business profits, and the figures would have been much greater if the Federal Corporation Income Tax (of approximately 40 per cent) had not been allowed as a deduction before the State tax was imposed. A considerable increase in the stock-and-bond (Hall) income tax receipts resulted from the same cause. Increase in gasoline tax revenues from \$27 to \$34 millions and the motor vehicle (auto registration) revenues from \$6.8 millions to \$9.4 millions reflected full employment, high wages, and the increase in the number of automobiles in use. Increased revenues from beer and alcoholic beverage taxes partially reflected the "boom" but were more largely the result of a doubling of the tax rates in 1947.

The second cause of the large increase in revenues was the passage of the 2 per cent retail sales tax, which went into effect on June 1, 1947, and produced more than \$41,000,000 during its first year.

The following figures, (given in round numbers) illustrate the relative importance of the two causes noted above:

Revenues for fiscal 1946.....	\$63,000,000.00
Increased revenues produced by same taxes (due to "boom") in 1948	21,000,000.00
Total revenues, 1948, from same taxes and rates as those of 1946	84,000,000.00
Increase due to sales tax.....	41,000,000.00
Increase due to increased beer and liquor taxes.....	1,000,000.00
Total 1948	\$126,000,000.00

Thus, from the above figures, it will be noted that while the postwar "boom" increased revenues approximately 32 per cent, the new taxes and higher rates increased them by approximately 68 per cent. The retail sales tax was thus the most important factor in the increase.

Constitutional Revision Commission, 1945.

Even before the end of the war, interest was revived in the possibility of altering the basic law of the State, which, as noted elsewhere in this history, was by far the most ancient unamended state constitution in the United States.

Senate Joint Resolution No. 20, approved on March 2, 1945, authorized Governor McCord to appoint a commission to study the needs for constitutional revision and present specific recommendations prior to the meeting of the 1947 legislature. A committee of seven, under the chairmanship of General William L. Frierson, was selected by the Governor and, on November 8, 1946, presented its *Report of Constitution Revision Commission*.

The Commission emphasized the former difficulties encountered in attempts to alter the Constitution by amendments or by full-fledged conventions, and it proposed in lieu of these a "limited constitutional convention" with power only to consider nine proposals, which the Commission submitted in its *Report*. The longest proposal dealt with taxation, and suggested the following changes: (a) Permit "tax classification" by State and local governments;¹ (b) alter the present exemption of "products of the soil in the hands of the producer and his immediate vendee" by eliminating "and his immediate vendee." (c) While the Commission failed to call for authorization of a general income tax, it proposed broadening somewhat the income tax on stocks and bonds and other income-producing intangible property. The Commission would continue to limit the power of local governments to lend or give their credit in aid of private companies.

Another proposal of the Commission dealing with the suffrage would permit the legislature to impose or not to impose a poll tax at its discretion.

Other proposals were: Facilitate the process of amending the Constitution, or of calling a convention; modify slightly (but without strengthening) the Governor's existing veto power; increase the per diem compensation of legislators from \$4.00 to \$10.00; increase the Governor's term to four years, with a maximum of two consecutive terms; increase "home rule" for counties and cities; alter the process of reapportionment of legislative districts; simplify the process of partial or complete county-city consolidation; and modify the requirements for a legislative quorum. While the report implied that some of the proposals were not ideal, they were felt to be all that was then politically acceptable.²

¹Tax classification is a process whereby property is assessed or taxed at different rates, with a very low rate on intangible personal property.

²William Gerber, a member of the Commission from Shelby County, while signing the report, qualified his position by adding "... I doubt the wisdom of amending the Constitution as suggested in Proposals I, II, III, VII, VIII and IX." These dealt with taxation, the poll tax, legislative reapportionment, and home rule.

The 75th General Assembly, despite a message from the Governor urging the submission of the proposal to the voters, rejected the Commission's proposals. Attorney-General Roy H. Beeler, who had previously given an adverse advisory opinion on the constitutionality of a "limited convention," opposed the bill before a legislative committee on the grounds that the powers of a convention could not be limited by the legislature, even if the voters approved such a convention. Thus another attempt to crack the constitutional "bedrock" terminated in at least temporary failure.

Retail Sales Tax, 1947³

The desperate plight of the educational system in 1946 led to the making of a study, under the sponsorship of the Tennessee Educational Association, of possible new sources of revenue for the State. This report, prepared by well-known figures from academic and governmental circles, was released on December 7, 1946, and contained an analysis of the probable sums which new taxes or alterations in old tax rates would produce. According to these estimates, a 2 per cent retail sales tax would yield from \$20 to \$25 millions per year, while a general personal income tax would, with low rates and ample exemptions, produce an estimated \$13.5 millions. A state-owned liquor store monopoly would yield \$12.5 millions, it was estimated. Smaller sums would result from increasing the State's *ad valorem* tax, the gasoline tax, the tobacco tax and the corporation excise tax. Except for the personal income tax, no revenue source whose constitutionality was questionable was considered, and the Committee and the T. E. A. made no specific recommendations as to which sources should be utilized (although later the Association strongly supported the passage of the sales tax).

Late in 1946, Governor McCord publicly announced his support of a 2 per cent sales tax, and late in January, 1947, the tax was passed by the 75th General Assembly. This measure produced the most sweeping change in the State's revenue system that had been effected since the adoption of the gasoline, corporation excise and tobacco taxes, (accompanied by a drastic reduction of the State's *ad valorem* tax), in the 1920's.

During the legislative consideration of the sales tax bill, an amendment to raise the tax rate to 3 per cent, with the additional 1 per cent to be distributed in full to the

³Public Acts of 1947, Chapter 3.

counties, passed the House, but the rate was again reduced to 2 per cent as a result of compromises which provided for a larger distribution of the sales tax revenues to county and city governments. Governor McCord led the movement to pass the 2 per cent bill, but the Shelby County delegation, customarily his supporter, abstained from voting on the measure. Opposition voiced to the tax came chiefly from the urban centers and the mercantile interests.

The salient features of the new law were as follows:

(1) Virtually all sales of tangible goods at retail were subject to the tax. The relatively few exemptions included; (a) gasoline, tobacco, and alcohol, which were already very heavily taxed; (b) sales of intangibles such as electricity, medical care, barbers' and dry-cleaning services; (c) rentals; (d) value of used articles, such as cars, traded in on a new product; (e) fertilizer, and sale of farm products direct to the consumer; (f) school supplies, religious literature and newspapers; (g) sales of material going into manufactured goods. No exemptions were provided for sales to churches, charitable organizations and private non-profit educational institutions. (2) The tax was to be collected by the merchants making the retail sale and transmitted monthly by them to the Department of Finance and Taxation, with a fee of 2 per cent of the taxes collected allowed to such merchants for this service. It was required that the tax be passed on to the consumer and not absorbed by the merchant. (3) While the act was carefully drawn in order not to be considered an unconstitutional burden on interstate commerce, it nevertheless sought as completely as possible to tax all articles purchased beyond the borders of the state for use or consumption within Tennessee which would have been taxable if bought within the state. (4) By ruling of the Commissioner of Finance and Taxation, a bracket system was set up whereby purchases under 15c were exempt from the tax; purchases from 15c to 65c were taxed 1c; and purchases from 65c to \$1.24 were taxed 2c; and similarly up the scale of purchases. No tokens were required, but the tax on a 15c articles thereby became not 2 per cent but 6½ per cent.

Distribution of the Sales Tax Receipts, 1947-1949. The approximate \$41,000,000.00 produced by the sales tax per year between 1947-1949 were distributed as follows:

First \$20,000,000.00 of Sales Tax Revenues:

To counties, for educational purposes.....	70.00	per cent
To Department of Public Welfare, for aid to dependent children, the aged, and the blind.....	10.00	" "
To municipalities on a pro rata population basis..	12.50	" "
To State sinking fund to retire bonds subsequently to be issued for new State buildings and for maintenance on all State buildings	5.00	" "
For administration of tax (maximum)	2.50	" "
Total distribution, first \$20,000,000.00	100	" "

"Overage" (Revenues in excess of \$20,000,000.00):

To counties, allocated on "gas tax basis" ⁴	80.00	per cent
To municipalities, on population basis.....	12.50	" "
To State sinking fund	7.50	" "
Total distribution, "overage"	100.00	" "

*Educational Appropriation Act of 1947.*⁵ The first \$14,000,000.00 produced by the sales tax were, as noted above, to be allocated through the State's "general fund," together with additional amounts, for public school education. The "minimum educational program" set forth by law, required a total state-wide expenditure of \$44,377,932.00, of which the State was to provide \$24,877,932.00, while the local units of government were to provide from local revenues \$19,500,000.00. The total was allocated as follows:

General Control	\$ 837,551
Cost of Instruction	36,678,037
Pupil Transportation	3,033,556
Operation, Maintenance, Fixed Charges	4,677,788
Health Services	251,000

Total, "minimum educational program"\$44,377,932

The 1947 law provided a nine-months school throughout the state for all grades, and made provisions for a \$300.00 per year increase in teachers' salaries.

A formula based upon the ratio of assessed and true value of the property in a given county (or city or school district, if these units operated the schools), compared to the assessed and true value of property in the entire state, was used to determine the minimum financial contribution to the program required of "equalizing" counties, while a

⁴One-half divided equally among the 95 counties, one-fourth divided according to area; and one-fourth allocated according to population.

⁵Public Acts of 1947, Chapter 8.

formula based upon the "average daily attendance" in the county, compared to the "average daily attendance" for the entire state, determined the county's share in the total above expenditures of \$44,377,932.00. Subtracting the county's contribution from the county's share gave the amount which would be paid for by State revenues.

The 1947 law also appropriated \$3,073,200.00 per annum for the operating expenses of the University of Tennessee, and an additional sum of \$2,417,021 per annum for the other colleges and special educational institutions.

Thus, total State funds expended on education increased from \$24.2 millions to \$44.2 millions per year between 1947 and 1948. In addition, \$13.4 millions were distributed to the counties from the "overage" (and not counted as part of the State's budget). Thus a grand total of \$67.6 millions of revenues collected by the state was transferred to local units of government for educational purposes.

Sales Tax Developments, 1947-9.

Due to the inflation, the sales tax produced far in excess of the \$20 to \$25 millions which it was estimated, on the basis of 1946 prices, to produce. For the fiscal year ending June 30, 1948, a total of \$41,121,553.46 poured into the State Treasury, and thence into the counties, cities and school districts. Municipalities undertook large new capital outlays for roads, streets and buildings. Counties began building programs to replace or enlarge school buildings. The amount of educational funds supplied by the State exceeded the amounts supplied from local revenue sources in 87 of the 95 counties, and local property-tax rates were lowered in numerous instances.

Criticism was quickly voiced against the "gasoline tax formula" for allocating the 80 per cent "overage," since this resulted in much larger sums going to the rural than to the urban counties. It was shown that Moore county received \$141.46 per "A. D. A." pupil, while Davidson county received \$9.38 per pupil. On a per capita basis, Moore county received \$68.83, while Shelby county received only \$3.88. One rural county received \$9.00 from State sources for every \$1.00 raised locally.

Despite the fact that criticism of this method of distributing the sales tax overage was voiced by the Tennessee Tax Revision Commission appointed by Governor McCord in 1947, which described it as creating "a most unjust and

indefensible situation,"⁶ the Governor nevertheless continued to defend this method of allocation throughout the remainder of his tenure, supporting it in his last speech to the legislature in January, 1949.

Other Fiscal Developments, 1947.

The legislature in 1947 increased the State's share in social welfare expenditures for dependent children, the needy aged and the blind from 37½ per cent to 40 per cent, while the local governments' share was reduced from 12½ to 10 per cent. Fifty per cent continued as before to be supplied by the Federal government.

The 75th General Assembly, at its regular session in 1947, temporarily suspended the payments of tolls on the remainder of the State's toll-bridges.⁷ It also altered the redistribution of T. V. A.'s payments in lieu of property taxes, and provided that counties would share in these payments on the basis of the amount of taxes which they would collect if T. V. A. property had been privately owned. This Assembly also passed an "open shop" bill, and set up a retirement system for State employees.

Tennessee Tax Revision Commission, 1947-8.

Acting upon the request of Governor McCord, the 75th General Assembly approved a resolution on January 29, 1947, providing for the appointment of a commission of seven citizens to study the needs of the State government and its political subdivisions for revision of their tax systems. The sum of \$25,000.00 (later supplemented by \$15,000.00) was appropriated for this study. Under the chairmanship of Solicitor-General William F. Barry, the Commission employed a research staff headed by Dr. Luther Gulick of the Institute of Public Administration, New York, which proceeded to make one of the most intensive studies ever made of the revenue system of the State and its local subdivisions.⁸ A period of more than one year was devoted to the collection, classification and study of these findings. Membership on the Commission, while composed of able and public-spirited citizens, was not fully representative of all the economic interests of the state. The findings of the research staff and the recommendations of the Commission

⁶Report of the Tennessee Tax Revision Commission, p. 49.

⁷Public Acts of 1947, Chapter 7.

⁸Work of the research staff was facilitated by its access to material compiled by other research agencies. These included the voluminous material accumulated over a period of sixteen years by the Tennessee Taxpayers Association, most of the material included in this *Financial History*, and numerous other shorter studies.

were summarized in a *Report of the Tax Revision Commission of the State of Tennessee*, released on November 1, 1948.

Many of the Commission's proposals merely echoed recommendations which had previously been made by numerous groups. Among these were: (1) amendment of the Constitution to make possible a classified property tax; (2) elimination of 64 of the more illogical and unproductive "privilege taxes"; (3) abandonment of the State's 8c property tax for use by local governments; (4) exemption of religious and non-profit educational institutions from the 2 per cent sales tax; (5) imposition of a net income tax on unincorporated businesses (if constitutionally possible) to replace the above-mentioned privilege taxes; (6) codification and simplification of the tax laws of the state; (7) expansion of the merit system; (8) alteration of the existing method of distributing the sales tax "overage," and expansion of the "annual minimum school program"; (9) modernization and more adequate supervision of the system of local government and finance. The Commission declared on this point:

The major inadequacies of the Tennessee tax system are found at the county level and in the growing urban centers where service needs and demands have run ahead of available local tax resources. . . . The time has come for the introduction of standard and up-to-date accounting systems, annual reports, regular and complete budgets, and the extension and speed-up of the audits. These changes do not interfere with local home rule, but deal solely with procedures. The local people and their officers will still decide what they will do under their own powers and with their own funds.⁹

(10) Co-ordination and improvement of the system of grants-in-aid as between Federal, State and local units of government.

Other recommendations of the Commission, some of which were new and, in some instances, controversial proposals, were: (1) to work in the direction of a separation of tax sources for the Federal, State, and local governments; (2) not to adopt a general income tax. On this point, the Commission, while holding that existing system "placed more burdens on consumption than do the tax systems of most American states,"¹⁰ and while admitting that "state and local taxes are distributed on a *proportional* basis, with an even load, up to and including incomes of \$5,000.00, and are somewhat regressive from there up

⁹*Report of the Tax Revision Commission*, pp. 70-71.

¹⁰*Report*, page 70.

the income scale,"¹¹ was nevertheless opposed to reduction of taxes on food, gasoline, tobacco or liquor, and was opposed to a state income tax, on the grounds, first, that the Federal income taxes were steeply progressive, second, that state income taxes would hamper investment and industrialization, and, third, that such a tax was unconstitutional: (3) to set up a reserve or "equalization" fund, chiefly by appropriating 5 per cent of gross revenues to this purpose, which would be used to maintain State and local expenditures during years of recession; (4) to permit local government to use the gross receipts tax on theatres and other amusements, reducing or eliminating State taxes from these sources. (5) On the subject of poll taxes, the Commission was virtually silent, this tax being of small importance except as a qualification for voting.

The Commission believed that:

The Tennessee tax system is on the whole a good system. It meets the fiscal requirements of the state treasury and enables the state to pay 46¢ from each dollar of state taxes collected to the counties and cities to help them finance educational, highway, welfare and general local needs.¹²

In his last message to the 76th General Assembly, early in January, 1949, the out-going Governor McCord, presumably because of his disagreement with the Tax Revision Commission on the subject of altering the distribution of the sales tax, merely offered the report of the Commission without specific recommendation or approval.

Many of the proposals contained in the report coincided with the platform and program of Gordon Browning as stated both during his political campaign in 1948 and following his election in both the Democratic primary and general elections. A number of these were enacted into law during the regular session of the legislature in 1949, as will shortly be noted.

Financial Program of the Second Browning Administration.

The return of Colonel Gordon Browning to the office of Governor in 1949, ten years after the expiration of his first term, was presaged by the election of 1946.

Since Colonel Browning was serving with the Allied Military Government in Germany during this period, Tennesseans experienced the unusual situation of a Democratic gubernatorial campaign in which one of the candidates was outside of the country and delivered no campaign

¹¹*Ibid.*, page 37.

¹²*Ibid.*, page 69.

addresses. Despite his absence, Colonel Browning polled 120,535 votes to 187,119 for Governor McCord, and as a result it was a foregone conclusion that Browning would oppose McCord in 1948.

During the course of the 1948 primary campaign, Governor McCord expressed his opposition to any change in the sales tax or in the method of distributing the "overage." He noted the large increases in educational and social-service expenditures which the increased revenues had made possible.

Colonel Browning expressed himself as favoring "modifications in several respects" of the Constitution on the basis of the report of the Constitutional Revision Commission, agreeing with Governor McCord on this issue. Both candidates were also in agreement on the advisability of eliminating the poll tax for voting.

On the subject of the sales tax, Colonel Browning took the position that, while the absence of a broader choice of revenue sources (due to constitutional restrictions), made it impractical to repeal the sales tax, removal of the tax on necessities of life should be undertaken as soon as possible.¹⁴ He also pledged to abolish the State's 8-cent property tax, and to remove some of the other "most troublesome levies," and he promised "to begin a program to place an all-weather road in reach of every farm in Tennessee." While conceding the need to consider reallocation of the sales tax overage, he stated that there would be "no lessening of the percentage devoted to education."¹⁵

The sweeping victory of Colonel Browning in the primary and general election and the election of a legislature favorable to his program made possible by the prompt enactment of most of it into law at the 1949 regular session of the 76th General Assembly.

Financial Developments in 1949.

Governor McCord's suggestion that no modifications be made in the sales tax or the distribution of the "overage," given to the legislature in his retiring speech, was not approved by the 76th General Assembly, which proceeded to make major financial changes.

¹⁴In a speech at McKenzie, Col. Browning stated: "Those who say the sales tax is easy for the low-salaried and the poor to pay are not familiar with the heavy load it places on them. The only justification for its continuance is necessity."

¹⁵Quotations in this paragraph taken from campaign addresses of Gordon Browning.

*Educational Appropriation Act of 1949.*¹⁶ This law, approved by the Governor on February 11, 1949, set the cost of the "minimum educational program" at \$58,777,932.00 per annum for the fiscal years to end in 1950 and 1951. This was an increase of \$14,400,000.00 over the 1948-1949 program, and marked the setting up of the highest educational standards in the State's history. Of the total cost of the program, \$19,500,000.00 per annum was, as previously, to be borne by local units of government, while \$39,277,932.00 per year was appropriated from the State Treasury.

As under the 1948-1949 program, local school units (counties, cities and school districts) were divided into "equalizing" and "non-equalizing" units, with the same general formulas employed to determine the share of each in the total educational appropriations, the local contributions, and the State's contributions. Salaries were set at a minimum of \$2,000.00 per year for a beginning teacher with a degree, while increases were also provided for other teaching categories. More adequate allowances were made for transportation, maintenance, and teacher-retirement benefits. The distribution of the sales tax "overage," which under the former system had been so severely criticized, was altered by this law in such a way that more funds were specifically allocated to the "minimum school program" while fewer funds were distributed as "overage." The new program still provided large amounts for local school building programs (\$6,300,000) and gave the Governor discretion to distribute certain additional sums to relieve local "hardship" cases. Under the 1949 appropriations, record sums were appropriated for higher education, the University of Tennessee receiving \$4,375,000 per year for current operations, and state colleges and other educational institutions receiving \$4,060,000 per year for the biennium 1949-1951.

The large increases in appropriations at all educational levels, together with the outlays of the State and local governments for buildings and equipment, promised a "new deal" for Tennessee's children. From a position near the bottom of the list, the State had climbed in a few years toward a position of leadership among Southern states in the task of educating its youth.

¹⁶Ch. 9, *Public Acts of 1949*.

*Repeal of the State Ad Valorem Tax, 1949.*¹⁷ The movement begun by Governor Peay in the 1920's was finally completed when, on April 5, 1949, Governor Browning signed the act which completely repealed the State's remaining property tax of 8c per \$100. This act thus removed the influence which had long operated to cause gross undervaluation of county assessment aggregates in order to reduce property-tax liability to the State. It also made possible the use of this tax by the local governments, without the total burden on property-taxpayers being increased. The loss to the State in revenues was approximately \$1,250,000 per year.

Modification of the Poll Tax. Although the poll tax could not be completely repealed, virtually every constitutional loophole was employed by the 76th General Assembly to modify it and thus increase the freedom of the ballot. Poll taxes as pre-requisites for voting in the primary elections (which were generally tantamount to election) were completely abolished. Women were exempted from the tax, as were all blind persons and war veterans, and a one year statute of limitations on the collection of unpaid poll taxes was imposed. Taken with other important election-law reforms, such as permanent voter registration for counties of over 50,000 population and cities and districts of over 2,500 population, stricter supervision of voting and ballot-tallies, and the making of conspiracy to violate election laws into a felony, the legislature of 1949 worked a major change which would greatly increase voting.

Modification of the Sales Tax. The major changes in collection of the sales tax made by the 1949 Regular Session was the exemption of churches, charitable organizations and non-profit educational institutions from payment of the tax, as proposed by the Tennessee Tax Revision Commission and by Governor Browning. However, the administration's bill to repeal the sales tax on burial supplies and prescription drugs, while passing the Senate, failed to pass the House. The sales tax was made to apply to gasoline in those cases (as in aviation fuel) in which the 7c regular gasoline tax was repealed.

Other Financial Developments of 1949. So many laws of great importance were passed during the regular legislative session of 1949 that it appeared to be a year of major political and economic change for the state. Not all are

¹⁷Ch. 90, Public Acts of 1949.

pertinent to a financial history, but some of the developments are here noted: The Governor's salary was raised to \$12,000 per year, and that of departmental heads and others was raised to \$7,500. All retired teachers over seventy years old were made eligible for benefits from the Teachers Retirement System, even though they had retired prior to 1945, when the plan was set up, and benefits of retired teachers were increased. Cities were permitted to enter a new revenue field when the State's gross receipts tax on amusements was lowered from 3 per cent to 2 per cent, while local governments were authorized to impose a tax of 2 per cent. Another law doubled the State's liquor licenses. The tax of 10 cents per pound on colored oleo-margarine was eliminated. Bridge tolls, temporarily suspended in 1947, were now permanently removed. Unemployment compensation benefits were increased from a maximum of \$18 to a maximum of \$20 per week, and allowances for the needy aged and blind were increased.¹⁸

A record overall outlay of \$232,849,940 for the biennium 1949-1951 was requested in administration appropriation bills introduced on March 30, 1949, and these bills were passed in substantially their original form. The amount represented an increase of \$61,482,319 over the biennium 1947-1949, of which nearly \$50,000,000 was for educational increases. Approximately \$30,000,000 of the increase was more nominal than real, however, since it represented a diversion of this amount of sales tax not previously included in the State's budget from direct distribution to the counties to inclusion in the larger "minimum educational program." Thus the real increase in appropriations was approximately \$31,000,000 for the biennium, or \$15,500,000 per annum. The appropriations were broadly divided as follows:

General Operating Costs, Departments and	
Commissions	\$165.8 millions
Interest and Sinking Fund (Debt Service)	19.7 " "
Highway Department	47.3 " "
Total	\$232.8 millions

The campaign promises of Governor Browning to build all-weather "black-top" farm roads moved toward fulfillment through the authorization of a \$22,000,000 program which was termed "the biggest undertaking for the people

¹⁸A legislative oversight, whereby identical bills were not passed by both houses, led to failure during the general session to increase allowances for dependent children, despite the legislative intent to do so.

since Gov. Austin Peay founded the original state highway program."¹⁹

The 76th General Assembly authorized bond issues totaling \$17,500,000 for construction of the following.

State College Buildings	\$ 8,500,000
University of Tennessee Buildings	2,500,000
Department of Institutions	2,000,000
State Hospital Bonds	2,000,000
Tuberculosis Hospital Bonds	2,500,000
Total	\$17,500,000

Bond issues for State office buildings, State Library and Archives, and other institutional buildings had also been authorized by the 1947 legislature, and work on \$12,000,000 worth of these projects was begun soon after the adjournment of the 76th General Assembly in April, 1949.

A bill to submit the question of calling a "limited constitutional convention" to the people, favored both by Gov. Browning and ex-Gov. McCord, was passed, calling for a referendum on Nov. 8, 1949.²⁰

Efforts to repeal the "open shop bill" were defeated by the rural bloc in the legislature. A bill to prohibit strikes in rural electric co-operatives was vetoed by the Governor, and his veto was sustained by one vote in the Senate.

Attempts to grant a soldiers' bonus, which would have required the issue of approximately \$150,000,000 of bonds to be retired from the proceeds of a State liquor-store monopoly, failed, and the matter was not brought to a vote. Gov. Browning expressed opposition to State-owned liquor stores.

The regional educational pact to set up more adequate institutions of higher learning for Southern negro students was ratified by the 76th General Assembly, and Meharry Medical College at Fisk University in Nashville became the first of these institutions.

¹⁹Nashville Tennessean, April 21, 1949. Authorized by Ch. 16, *Public Acts of 1949*.

²⁰*Public Acts of Tennessee, 1949, Ch. 49.*

Chapter XIV

TRENDS IN EXPENDITURES, 1870-1949

State expenditures were small during the first decade covered by this survey (1870-1880). Between 1870 and 1879, inclusive, the average annual expenditures were \$1,538,108.25, which represented a *per capita* expenditure of hardly more than \$1.00.

During the decade, 1880-1890, expenditures in dollars fell to an even lower level. Between the years 1880-1889 inclusive, the average expenditure per year was \$1,254,187.15, and this was a *per capita* expenditure of approximately 75c.

From 1890 to 1899 inclusive, average annual expenditures were \$2,138,955.92, which produced an average *per capita* expenditure of approximately \$1.13.

The cost of the State government from 1870 to 1900, therefore, was very low, and in view of the increasing wealth and income of the people during this period, the real burden was actually declining.

From 1900 to 1909, inclusive, average annual expenditures were \$3,084,335.75. This was an increase of more than forty-five per cent. On a *per capita* basis, the annual average for this decade was approximately \$1.47, a thirty per cent increase over the *per capita* annual average of the previous decade. In fact, most of this increase came after 1905, when the expenditures for education and for Civil War pensions in particular, showed a rapid rise.

The decade 1910-1919, inclusive, produced an average annual expenditure of \$5,610,145.98, which was an increase of nearly eighty-five per cent over that of the previous decade. On a *per capita* basis, average annual expenditures were approximately \$2.48, which was an increase of nearly seventy per cent.

Viewed in retrospect, the developments of the period 1870 to 1920 appear gradual, orderly and logical. The same cannot be said of the two and one-half decades—1920-1945—which were to follow. Insofar as public expenditures measure social and economic changes, recent decades have produced hardly less than revolutionary alterations.

From 1920 to 1929, inclusive, average annual expenditures were \$22,505,536.32, and this was an increase of more

than four hundred per cent over the average for the previous decade. *Per capita* annual expenditures during the "Roaring Twenties" were approximately \$9.08, or three hundred and fifty per cent above the previous decade.

The decade of depression, the 1930s, produced average annual expenditures of \$55,242,265.02, or approximately one hundred and fifty per cent greater amounts than the average for the previous decade. *Per capita* annual expenditures now reached \$19.97, an increase of one hundred and twenty per cent over the previous ten-year period.

These developments are summarized in the following table:

ANALYSIS, BY DECADES, OF TOTAL EXPENDITURES,
1870-1940.¹

Years	Expenditures	Average Annual	Population	Per Capita
1870-79	-----\$ 15,381,082.57	\$ 1,538,108.25	1,400,439	\$ 1.098
1880-89	-----12,541,875.15	1,254,187.15	1,654,938	.757
1890-99	-----21,389,559.18	2,138,955.92	1,894,067	1.129
1900-09	-----30,843,357.49	3,084,335.75	2,101,702	1.467
1910-19	-----56,101,459.78	5,610,145.98	2,261,337	2.481
1920-29	-----225,055,363.16	22,505,536.32	2,477,220	9.085
1930-39	-----552,422,650.23	55,242,265.02	2,766,199	19.970

While absolute exactness was impossible to secure in the preceding table, because of limitations in available data, broad trends are indicated with a reasonable degree of accuracy.

Analysis of Principal Expenditures, 1870-1948.

The year 1899 (fiscal period ending December 19th) was the first in which total expenditures exceeded three million dollars. During the period 1870 to 1898, inclusive, annual spending ranged from a low of \$637,969.46 in fiscal 1880, to a high of \$2,882,172.49 for fiscal 1875.

During the period between 1870 and 1883, interest payments on the bonded debt would have absorbed by far the largest proportion of expenditures except for one fact; namely, the interest payments were defaulted during almost

¹Figures computed on basis of data taken from *Comptrollers' Reports, 1870-1924*; from *Condensed Financial Statements, 1924-36*; From *Statements of the Division of Accounts, 1936-1939*.

The period 1870-1879, inclusive, covers the dates October 1, 1870, to Dec. 19, 1879. Fiscal periods ended on December 19th thereafter until Dec. 19, 1918, when a transition was made to a fiscal period ending June 30th. Figures for 1919 are estimated. Since 1920, fiscal periods have ended June 30th.

Average annual expenditures were secured by dividing the decade totals by ten. The population figure given above was secured by dividing population-figures at beginning and end of decade by two. *Per capita* figures were secured by dividing population into average annual expenditure, on the bases noted.

the entire period, since it was generally felt that much of the debt had been incurred under conditions of outright or near fraud. The average debt for the decade was approximately \$25,000,000, and interest payments on this amount, at only four per cent, would have required \$1,000,000 per year. Yet there were six years during the period, 1870-1883, when annual expenditures for all purposes were less than a million dollars.

For the fiscal year ending October 1, 1870, total disbursements were divided among the following purposes:¹

Charitable and correctional	24 per cent
Educational	12 per cent
Financial	22 per cent
General governmental	23 per cent
Miscellaneous	19 per cent

In 1870, there were, in the way of charitable and correctional institutions, a penitentiary at Nashville, one hospital for the insane near the capital, a school for the blind, and a school for the deaf and dumb. Nothing whatever was provided at this time for higher education, and the *per capita* expenditure on elementary education was less than 14 cents.

Financial disbursements noted above included payment of interest on short-term debt, repayments of current borrowing, and payments on the bonded debt.²

Among the "Miscellaneous" category, nearly one-half was spent for the State Guard, which was extravagantly used during the period as an incidence of political controversies. Also included were such sparse capital outlays as were made.

The above distribution of expenditures in 1870 constitutes a pattern which was followed fairly closely during the entire decade to follow. Such divergencies as occurred were due to what we have classed as "Financial" expenditures. In the biennium ending December 19, 1876, for example, attempts were made to resume interest payments on the debt, and \$1,430,000.00 were expended for this purpose. In addition, \$1,084,000.00 were spent to pay off short-term debt incurred during the previous biennium, and additional sums were paid as interest on current debt. Thus, for this biennium, sixty-six per cent of total disbursements fell into the "Financial" category.

¹Computed from data in *Comptroller's Report*, 1870.

²*Cf. ante*, Chapter XVI.

After the Debt Settlement Act of 1883,³ interest payments on the bonded debt were resumed, and no case of default thereafter occurred, though on numerous later occasions short-term borrowing was resorted to, in order to pay bond interest. As a result, actual interest payments form a larger part of the total disbursements after 1883, although the debt was almost halved by the Debt Settlement Act of 1883.

The period from 1883 to the end of the century witnessed gradual increases in the expenses of "General Government" as a result of expenditures on public health, mine inspection, Bureau of Labor and Agricultural Department. Some increases were merely expansions of existing functions. It will be noted from the previous table, however, that the proportion of such costs to total expenditures was remarkable stable from 1874 to 1910 except for the biennium ending December 19, 1880, when virtual cessation of "Financial" expenditures caused large percentage increases in the remaining categories.

The size and number of the State's charitable and correctional institutions increased during this period. By 1900, there were three Hospitals for the Insane, an Industrial School for homeless boys, and a Confederate Soldiers Home, and increasing amounts were also being spent on the Blind School and the School for the Deaf and Dumb. The large, new Penitentiary was completed in 1897.

Pensions. The first pension act, passed in 1883, provided small stipends for blind veterans of the Civil War. In 1885, only \$1,240 were spent for this purpose. By 1890, pensions were also granted to those who had lost limbs in the war, and the total amount expended for veterans that year was \$11,294.11, of which \$2,000 went to the Confederate Veterans Home (which was then privately operated). Comptroller J. W. Allen reported with considerable indignation in 1890 that a veteran of the Federal Army had attempted to secure a State pension, and he expressed the hope to the Legislature that "all necessary appropriations will be made to make every Confederate soldier comfortable and happy, but that you will more carefully define the character of soldiers who should be pensioned."⁴

By an act passed in 1891, pensions were granted to all "needy or deserving veterans," the amounts authorized

³Cf. post, Chapter XV.

⁴Comptroller's Report, 1890, page 11.

ranging from \$100 to \$300 per year, and 518 veterans received pensions of \$57,560.00 during this fiscal year.

Pensions were first paid to widows of Confederate veterans in 1905, and eventually it was possible for a widow who had married a veteran as late as 1917 to be eligible for payments. Finally, in 1921, negro servants and cooks who served Confederate soldiers were also made eligible for pensions. The last payment to a veteran was in 1947, eighty-two years after the end of the War Between the States.

The following table shows payments of this character from 1898, when they began to increase considerably, to 1948:

CONFEDERATE PENSIONS AND AIDS, SELECTED DATES,
1898-1948¹

Biennium	Veterans and Colored Servants	Widows	Confederate Home	Total
1898-1900	\$ 153,277.43	\$	\$18,917.72	\$ 177,195.15
1904-1906	484,260.19	36,470.00	32,487.03	553,211.22
1908-1910	718,814.20	245,626.62	43,097.11	1,007,537.93
1914-1916	843,523.36	686,704.45	35,353.43	1,665,581.14
1920-1922	1,105,098.74	697,706.50	61,145.10	1,863,950.34
1926-1928	838,614.68	661,492.51	45,761.41	1,545,868.60
1932-1934	486,059.87	1,340,685.50	20,601.68	1,847,347.05
1940-1942	34,288.50	584,130.23	4,340.14	622,758.87
1944-1946	3,350.00	435,593.21		438,943.21
1946-1948	1,000.00	414,471.00		415,471.00

¹Fiscal year ending December 19th from 1898-1916; ending June 30th, from 1920-1948. Data taken from *Comptrollers' Reports*, 1898-1920; from *Condensed Financial Statements*, 1926-1934; from *Statements of the Department of Accounts*, 1940-1948.

Education. Expenditures made during the biennium ending December 19th, 1900, gave little hint of the significant changes soon to take place. Education received \$298,853.94 as "interest on the perpetual school fund," and this constituted, for the State as a whole, a *per capita* annual expenditure of approximately 61½c.⁵ Taking Governor McMillin's figures of 485,354 children in school in 1900 as a basis for computation, the States contribution to public education was just over 61c per pupil per year.⁶ No public high schools received State funds, and the only State expenditure for higher education was for the State Normal College (later Peabody) at Nashville, which received \$40,872.03 over the two-year period, 1898-1900.

Such conditions soon produced action, and Benton McMillin, who became Governor in 1899, took note of the situation by securing the passage of a uniform textbook law to

⁵Computed from *Report of the Comptroller of the Treasury*, 1900.

reduce the cost of school books. Details of the subsequent rapid increase in educational expenditures, which began in 1904, were given in Chapter V. The following figures show total educational expenditures during the first twenty-four years of this century:

**TOTAL EDUCATIONAL EXPENDITURES, STATE OF
TENNESSEE AND PERCENTAGES OF SUCH EXPENDITURES
TO TOTAL EXPENDITURES, 1900-1924¹**

Biennium	Educational Expenditures	Percentage of Total Expenditures
1900-1902	\$ 325,695.18	6.52%
1902-1904	590,793.37	11.75
1904-1906	1,090,716.14	16.95
1906-1908	1,099,358.53	15.06
1908-1910	2,250,652.68	27.92
1910-1912	2,388,465.49	27.68
1912-1914	2,819,081.10	28.81
1914-1916	2,822,814.35	27.26
1916-1918	3,242,985.88	21.03
1918-1920	2,936,269.68	22.03
1920-1922	6,156,049.82	24.44
1922-1924	9,165,848.69	28.98

¹Figures computed from *Comptrollers' Reports*. Fiscal year ends December 19th each year through 1918. Figures for 1918-1920 cover only December 20, 1918 to June 30, 1920. Fiscal period after 1920 ends June 30th.

During his first year in office (1923), Governor Austin Peay expressed the belief that the State was spending too much for higher education as compared to its expenditures on the elementary and high schools. "It is more important that the mass of our citizenship should be tolerably educated rather than a limited number should be highly educated," he declared.⁷ He had apparently altered his views on this subject by 1925, however, when he noted that "We have done less than most states for the State University," and he proposed that \$1,026,700 be supplied for University expansion.⁸ It may be noted that \$1,000,000 had previously been authorized for University buildings in 1917, at the same time that a 5c *ad valorem* tax had been levied for maintenance. Peay noted that there were fewer doctors in Tennessee than there had been twenty years before (on a *per capita* basis), and that ten counties of the State had no dentist, while sixteen others had only one each. He also called for more funds for elementary and high schools, coupled with closer State supervision.

⁷Message of January 16, 1923, *Senate Journal*, page 115.

⁸Message of January 6, 1925, *Senate Journal*, page 26.

EDUCATIONAL EXPENDITURES, 1925-1948¹

Date ²	Expenditures	Percentage of Total Expenditures
1925	\$ 4,734,453.50	21.46
1926	5,518,394.39	23.02
1927	5,616,156.20	21.44
1928	8,071,202.37	22.98
1929	7,330,591.27	15.96
1930	7,928,836.57	12.22
1931	8,927,563.92	15.74
1932	9,077,295.72	23.34
1933	7,591,751.00	20.24
1934	7,697,755.63	21.11
1935	6,412,938.68	19.64
1936	6,716,849.58	21.53
1937	7,310,764.89	16.27
1938	12,412,484.66	18.02
1939	12,513,453.89	13.95
1940	12,089,247.01	17.04
1941	12,638,782.18	19.31
1942	15,142,780.59	20.73
1943	15,407,509.88	24.49
1944	16,763,191.02	21.29
1945	20,373,581.96	27.69
1946	20,964,672.17	21.83
1947	24,179,576.68	19.28
1948	44,214,055.36	23.18

¹Figures computed from following sources: 1925-1936, *Condensed Financial Statement*, 1936; 1936-9, *Reports of the Division of Accounts, and Comptrollers' Reports*; 1939-1949, *Statements of the Department of Accounts*.

²Fiscal year ending June 30th.

The General Education Bill of 1909 provided for substantial increases in all educational appropriations.⁹ In the same year, the State Board of Education was authorized to establish four Teachers or Normal Colleges, and counties and municipalities were authorized to issue bonds in aid of such colleges.

In 1911, the Memphis unit of the University of Tennessee was established as a Medical and Dental School. In 1915, the Tennessee Polytechnic Institute at Cookeville was created and, in 1929, the Austin Peay Normal at Clarksville, and the Junior College at Martin. In 1940, the Alvin C. York Agricultural Institute was added to the State system. In this year, \$2,575,400.80 were spent on the State's educational institutions, \$309,000.00 were spent on vocational education, and \$3,805,000.00 were granted to political subdivisions for the public schools.

Details of the large increases in educational expenditures during the 1945-1949 period, as well as the further increases appropriated for the biennium 1949-1951, were noted in Chapters XII and XIII.

⁹See Chapter VII, page 139.

Highway Expenditures. The most striking development of the 1920's and the early 1930's, from the viewpoint of expenditures, was the tremendous outlay for the construction of State roads and bridges.

During the nine-year period ending June 30, 1932, expenditures for this purpose consumed 54.56 per cent of total State expenditures. Compared to this, education during the same period received 18.68 per cent of the total.

The high-water mark in highway expenditures was reached in the fiscal year ending June 30, 1930, when 67.75 per cent of total State expenditures were spent on roads and bridges. The percentage in 1931 was 60.83 per cent. For fiscal 1932, both amount and proportion declined sharply, the latter to 24.80 per cent. By fiscal 1936, the amount spent for roads and bridges was \$9,494,809.17, which represented 30.43 per cent of total expenditures.

By 1935, the value of the State's highway and bridge system was estimated by Governor McAlister at \$200,000,000.00 and cost of maintenance was approximately \$3,000,000.00 per year.¹⁰

During the depression years, 1932-1934 inclusive, Federal highway grants were made without requiring matched funds from the State, but in 1935 this was again necessary. In 1939, Governor Cooper estimated that of the approximately \$11,000,000 spent on highways that year, \$4,000,000.00 were supplied by the Federal Government, \$3,300,000.00 were spent by the State as matching funds, and \$3,700,000.00 were expended by the State on maintenance.¹¹

Between 1939 and 1941, all available Federal funds were matched by the State. After the outbreak of World War II, construction of new roads was undertaken and financed almost exclusively by the Federal Government. By June 30, 1945, a free surplus of \$15,769,985.43 had accumulated in the Highway Fund, and by June 30, 1946, this had grown to \$18,260,574.76. By June 30, 1948, however, this was reduced to \$7,476,216.49.¹² Total reserves plus surplus in the Highway Fund reached a high of \$51,686,000.00 in 1947, but declined to \$49,470,927.50 by June 30, 1948. The first post-war highway construction projects of importance were begun in the summer of 1946.

¹⁰Message of January 11, 1935, *Senate Journal*, page 59.

¹¹Message of January 16, 1939, *Senate Journal*, page 254.

¹²Statement of the Department of Accounts, 1948.

The following table gives State highway expenditures from 1915, when such disbursements were first made, to June 30, 1948.

BIENNIAL EXPENDITURES ON HIGHWAYS AND
HIGHWAY BRIDGES¹, 1914-1948

1914-1916	\$ 72,391.46	1932-1934	\$21,040,754.29
1916-1918	463,791.01	1934-1936	21,088,964.82
1918-1920	1,369,504.13	1936-1938	23,152,812.57
1920-1922	7,498,964.88	1938-1940	25,064,006.57
1922-1924	9,008,436.17	1940-1942	25,323,079.57
1924-1926	23,892,605.95	1942-1944	14,923,162.41
1926-1928	33,585,460.46	1944-1946	23,317,506.75
1928-1930	72,933,451.85	1946-1948	72,992,902.14
1930-1932	44,156,551.14		

Expenditures for Charitable and Correctional Purposes. Expenditures for these purposes did not show such large and sudden changes as did expenditures for highways, but rather increased steadily over the entire period covered by this history. It has been noted previously in this chapter that during the decade of the 1870's, expenditures for these purposes were 10.90 per cent of total expenditures. During this period of slightly more than ten years (October 1, 1870 to December 19, 1880) total expenditures for such purposes averaged very close to \$150,000 per year. This is not an entirely complete picture, however, since the lessees of the Penitentiary paid for the maintenance and guarding of the prisoners, and expenditures for such purposes are consequently not included in expenditures, prior to 1897.

¹Figures taken from *Comptrollers' Reports, 1914-1924*; from *Condensed Financial Statements, 1924-1936*; from *Reports of the Department of Accounts, 1936-1948*. Fiscal period ended December 19 from 1914-1918. Fiscal period from December 31, 1918, to June 30, 1920. After 1920, fiscal period ended June 30th.

The following table gives expenditures for charitable and educational institutions at selected dates between 1880 and 1945:

TOTAL EXPENDITURES FOR CHARITABLE AND CORRECTIONAL INSTITUTIONS, SELECTED DATES, ¹		
1880-1948		
(in 000)		
Biennium	Expenditures	Percentage of Total Expenditures
1880-1882	\$ 192	12.1%
1884-1886	259	9.0
1888-1890	411	10.0
1898-1900	661	11.0
1904-1906	701	11.0
1908-1910	958	12.0
1914-1916	2,205	21.1
1920-1922	3,992	11.8
1928-1930	5,630	9.2
1934-1936	5,793	4.3
1940-1942	6,040	4.3
1944-1946	8,240	6.7
1946-1948	9,660	2.9

Public Welfare Expenditures. Supplementing the expenditures on charitable and correctional institutions, to some degree, have been the public welfare expenditures which developed as a result of the Federal Social Security enactments of 1935. Relief expenditures, as well as pensions to Confederate veterans, and retirement benefits under the Teachers Retirement Act of 1945 are excluded from this category. Unemployment compensation is also reserved for separate treatment.

These expenditures, for old age assistance, the needy blind, crippled and dependent children, maternity aids and similar purposes, were administered by the Department of Institutions and Public Welfare from 1937 to 1939, and thereafter by the Department of Public Welfare.

¹Data computed from *Comptrollers' Reports*, 1880-1924; from *Condensed Financial Statement*, 1924-1936; from *Annual Reports of the Division of Accounts*, 1936-1939; from *Reports of the Department of Accounts*, 1939-1946. Fiscal period ending December 19th, 1880-1916, and ending June 30th, 1920-1946.

PUBLIC WELFARE EXPENDITURES¹

Selected Dates, 1938-1948

(annual)

Date	Total Expenditures	Expenditures from State Appropriations
1938	\$ 4,537,250.39	\$1,929,093.97
1940	8,376,642.92	3,501,523.09
1942	9,255,582.60	3,570,442.47
1944	12,717,783.35	4,760,116.12
1946	14,162,724.50	4,431,083.64
1948	23,251,323.36	7,622,864.09

¹Figures computed from *Annual Reports of the Division of Accounts, 1938; from the Statements of the Department of Accounts, 1940-1948. Fiscal years ending June 30th.*

It will be seen in the above table that hardly more than one-third of the expenditures on public welfare were supplied by State funds. Fifty per cent of the cost of such expenditures was paid by the Federal Government, in addition to administrative costs, the State paid thirty-seven and one-half per cent, and the local governments twelve and one-half per cent.

The \$12,564,213.00 spent for such purposes in the fiscal year ending June 30, 1946, constituted 12.5 per cent of total State expenditures and of those expenditures \$7,387,046.58 were spent for old age assistance, \$2,203,730.79 for dependent children, and the remainder to aid the needy blind and for other miscellaneous purposes.

It appears likely that expenditures in this category will increase largely in the future as benefits are liberalized, age limits for eligibility are reduced, and a larger proportion of the population falls into higher age-brackets.

Unemployment Compensation. Tennessee passed legislation in 1936, as noted in Chapter X, to take advantage of the Federal Unemployment Compensation Law, setting up administration of the system in the Department of Labor.¹³ The payroll taxes, plus interest on the accumulated reserves invested in United States Government Bonds by the Federal Unemployment Trust Fund, have produced large amounts in excess of expenditures, especially after war-time prosperity and war-time employment simultaneously increased receipts and reduced expenditures.

¹³Cf. ante, page 203

Between the year 1938, when the program began to function, and June 30, 1948, the following financial results appeared:

THE UNEMPLOYMENT COMPENSATION RESERVE¹
1936-1948

Contributions by Employers	\$156,572,585.43
Interest Earned on Trust Fund	9,488,798.47
Gross Amount Credited to Reserve.....	\$166,061,383.90
LESS:	
Unemployment Benefit Payments	63,008,517.01
	\$103,052,866.89
Transferred to Railroad Unemployment Fund.....	1,527,440.15
	\$101,525,426.74
Miscellaneous Deductions	351,746.61
Unemployment Trust Fund, June 30, 1948.....	\$101,173,680.13

¹Figures from *Statements of Department of Accounts*, as classified by the author.

By dividing the total benefits paid during the above period by the number of years covered, it is found that average yearly benefits paid to the unemployed were \$5,728,047.00. The following table shows the actual annual payments.

UNEMPLOYMENT COMPENSATION BENEFITS, 1937-1948¹

1937	\$
1938	3,371,939.88
1939	5,072,570.34
1940	5,639,997.69
1941	5,243,163.61
1942	5,930,359.62
1943	3,300,201.92
1944	1,514,209.37
1945	1,381,886.78
1946	10,704,437.80
1947	10,235,406.71
1948	10,614,344.29

¹Figures from *Reports of the Division of Accounts, 1937-9*; from *Statements of the Department of Accounts, 1939-1948*.

The small sums paid from 1943-1945 are of course attributable to the war-time economic conditions, as well as the induction of men into the armed forces. The eight-fold increase of payments for each of the three fiscal years ending June 30, 1948, as compared to the previous fiscal year 1945, reflected the effects of economic reconversion and military demobilization. By June 30, 1948, the Unemployment Trust Fund had reached \$101,173,680.13.

Disbursements to Political Sub-Divisions. A large proportion of the State's disbursements has been made through the counties, both in their capacity as political subdivisions of the State and in their corporate capacity as units of local self-government. In the first capacity, they have acted merely as branches of the State government, and such expenditures cannot properly be classed as grants. In this category fall the payment of fees for criminal prosecutions, payment of the costs of delinquent land sales, and expenditures to local gasoline and kerosene inspectors.

Other disbursements to counties for educational purposes have in fact been grants, since locally-selected agencies supervised and directed the spending of the funds. In earlier periods, when the State distributed the proceeds of the "educational fund" on the basis of scholastic population, no State supervision of spending existed. Later under the "General Education Bill" and its successors, State standards were set up which the local agencies were required to meet. State spending on highways, at first requiring local matched funds, was later replaced by a diversion of State-collected funds to local road commissions.

In addition to grants from the State to local units of government, the State has shared a number of its taxes, collecting the sums and then redistributing portions to the counties or cities on the basis of population, area, or other standards. In 1944, for example, 2c of the 7c gasoline tax were apportioned to the counties for road construction and repair, 1c being equally divided among the ninety-five counties, $\frac{1}{2}$ c apportioned on the basis of area, and $\frac{1}{2}$ c on the basis of population. For the fiscal year ending June 30, 1944, the State disbursed \$5,695,006.89 for this purpose. Approximately fifty per cent of the "stock and bond income tax" was also distributed to the local units in 1944. Of the beer tax, $\frac{4}{17}$ of the net collections were distributed to the counties, and $\frac{4}{17}$ more were distributed to the municipalities on the basis of population. The alcohol beverage tax, first imposed in 1939, allocated approximately one-third of the receipts to the counties, seventy-five per cent on the basis of population, and twenty-five per cent on the basis of area. Thus, although only a few counties were "wet," all the counties received "liquid assets" from the liquor tax. In fiscal 1944, the counties received \$971,371.11 from this source.

Two cents of the tax on motor fuels other than gasoline were also allocated to the counties on the same basis as the

gasoline tax. Though producing only a nominal sum at present, this tax may be of increasing significance in the future.

Payments to the local governments for loss of revenues resulting from acquisition by the Tennessee Valley Authority of property formerly in private hands have been noted in Chapter XII. Though an important source of income for certain counties with unusually large amounts of such property, the total amount for the State was not great. In the year ending June 30, 1946, local governments received a total of \$1,451,502.84 from the State as "shared taxes" and "T. V. A. replacement payments."¹⁴

The tremendous increase in payments by the State to local units of government after 1947, from sales tax revenues, is noted in detail in Chapter XII.

¹⁴*Annual Statement of the Division of Accounts, 1946.*

Chapter XV

TRENDS IN RECEIPTS

Trends in Receipts, 1870-1880. During the decade, 1870-1880, overwhelming reliance was placed upon the property tax as the chief source of State revenues; and since personalty and corporate properties virtually escaped assessment, the tax was in fact hardly more than a levy upon real estate.

Between 1870 and 1880, assessment valuations decreased considerably for all types of property, as the following table shows:

Date	Land in Acres	Assessed Values ¹		Total
		Town Lots	Other	
1872	\$185,182,374	\$61,440,000	\$26,047,965	\$272,270,347
1880	148,999,550	46,635,550	16,133,338	211,768,438

¹Figures taken from *Comptrollers' Reports*. Since figures for 1870 and 1871 failed to separate valuations of Town Lots from Other (Personalty) valuations, figures for 1872 were used instead.

Since the financial data of this period were given under four different reporting periods, it is impossible to make annual or biennial comparisons concerning the sources of receipts. However, taking the total ten-year period, principal receipts were as follows:

Receipts, by Principal Sources, 1870-1880¹

Property	Privilege	Fines and Fees		Loan Accounts	Miscellaneous
\$8,804,307	\$2,779,042	\$636,738	\$2,221,268	\$959,251	
57.17%	18.04%	4.14%	14.42%	6.23%	

¹Computed from figures in *Comptrollers' Reports*. Loans include all types of borrowing.

Total receipts for the approximate decade, October 1, 1870 to December 19, 1880 were \$15,400,608.87.

The *ad valorem* rate was changed sharply during this period. It was 20c in 1870, 60c in 1871, 40c from 1872 to 1876, and 10c from 1877 to 1880. The low rate of 10c was levied in order to prevent any payments on the debt, which most members of the Legislature considered fraudulent, and which they believed should be repudiated or compromised.

Short-term borrowing was employed each year between 1870 and 1880, averaging approximately \$350,000 per annum, and accounting for nearly fifteen per cent of the total receipts during the decade. No funds were secured through the sale of bonds, since these were unmarketable as a result of the unsettled status of the debt.

Among the receipts listed in the previous table as "Miscellaneous," payments to the State from lessees of the Penitentiary accounted for \$352,356.54 of the total of \$959,251.34. Another sizeable item in this category resulted in 1874-1876 from the previous issuance of "denominational warrants." A total of \$269,800.00 was received in such warrants in payment of dues and taxes during the decade. Actually these receipts represented payments for various taxes and fees, but they are not classified under such headings.

Of the *ad valorem* receipts, most came from farm lands and town lots. Corporations paid only 15 per cent of the total *ad valorem* receipts of the decade. Insurance corporations paid the largest amount during the period, chiefly under a gross premiums tax, but since the tax was *in lieu* of other taxes, it was classed as an *ad valorem* tax. Receipts from this source were \$340,858.36 for the ten-year period. Banks, express companies, telegraph companies and sleeping-car companies paid only \$32,621.99 for the whole decade. Express companies first paid in 1872, telegraph companies in 1875, and sleeping-car companies in 1878. Railroads paid for the first time during the biennium 1874-1876, and total *ad valorem* receipts from railroads for the decade were \$168,050.52.¹

Clearly, then, taxes on individual property, and that chiefly real estate, produced the bulk of the State's revenues. If borrowing be excluded from the receipts, the property tax produced more than 66 per cent of the total; and property and privilege taxes combined produced more than 75 per cent. If to these two sources are added receipts from borrowing, we account for 90.63 per cent of total receipts for the decade.

Receipts, 1880-1900. During the second two decades of our survey, it is possible to make comparison of receipts on a biennial basis, since the fiscal reporting periods were not changed, and *Comptrollers' Reports* uniformly covered a two-year period. The following table uses the same classification as the table showing receipts from 1870 to 1880, except that a separate Loan Account is now excluded, and this item, relatively unimportant during most of the period, is included under Miscellaneous Receipts.

¹Figures in this paragraph computed from the *Comptrollers' Reports*.

TOTAL RECEIPTS, AND PRINCIPAL SOURCES, 1880-1900¹

Biennium	Property	Privileges	Fines and Fees	Miscellaneous ²	Total
1880-82	\$1,137,735	\$545,984	\$101,301	\$ 83,202	\$1,870,233
1882-84	1,250,360	664,100	103,307	177,118	2,194,886
1884-86	1,539,739	653,866	81,114	287,632	2,581,553
1886-88	1,703,545	753,201	91,055	1,147,195	3,694,996
1888-90	2,040,566	845,081	89,167	760,472	3,735,288
1892-94	2,460,213	913,571	89,752	594,438	3,986,771
1894-96	1,989,244	865,952	103,359	848,926	4,245,033
1896-98	1,855,530	750,413	115,460	1,695,398	5,516,802
1898-1900	2,617,939	993,608	211,261	2,243,421	6,120,231

¹Computed from figures in *Comptrollers' Reports*. Bienniums ended December 19th.

²Amounts in this classification derived from borrowing are shown on a

It is interesting to note that total receipts during the 1880's were less than during the 1870's. However, this makes no allowance for the inflation which existed during part of the 1870's.

Assessment valuations increased rapidly from 1880 to 1890, but remained virtually stable between 1890 and 1900, as the following table shows:

ASSESSED VALUES¹

Year	Land in Acres	Town Lots	Other	Total
1880	\$148,999,550.00	\$ 46,635,550.00	\$16,133,338.00	\$211,768,438
1890	172,340,180.00	120,530,633.00	54,637,292.00	347,508,105
1900	171,527,025.00	120,338,355.00	48,493,768.00	340,359,148

following page.

¹Data from *Comptrollers' Reports*.

The greater valuation of "Town Lots"—nearly three hundred per cent—can be accounted for largely by the increase in urbanization and industrialization. The increase of "Other" valuations (personalty), while proportionally large, was still very low as compared to the true value of such property in the state. The small decline in valuations of personal and urban properties between 1890 and 1900 can hardly be explained except in terms of weak administration, since by 1900 the Spanish-American War had wiped out the last lingering vestiges of the depression which followed the "Panic of 1893."

Throughout the period of this history, it was common practice in most states not to assess properties, for purposes of taxation, at their full market value. The following table indicates that this practice was carried to more extreme lengths in Tennessee than in other states, though the exemption of \$1,000 of personalty for each taxpayer

from *ad valorem* taxation (and from listing on assessment rolls) exceeded the personalty exemptions granted in most of the states, and explains part of the decided divergence.

RATIO OF PERSONALTY VALUATION TO REAL ESTATE VALUATION, TENNESSEE COMPARED WITH OTHER STATES,
1870-1900¹

Date	1870	1880	1890	1900
Tennessee	13.78%	8.27%	18.71%	16.26%
Eleven Southern States (excluding Tennessee) ..	46.49%	51.90%	61.68%	65.35%
Total, United States.....	43.00%	29.65%	34.37%	33.78%

¹Percentages computed from data in decennial publications of the United States Census Bureau, *Wealth, Public Debt and Taxation*, supplemented by the annual *Statistical Abstracts of the United States*.

The rapid increase of various forms of personalty and realty exemptions in all states after 1900 make comparisons on the above basis of little value. The failure of Census Reports to divide public utility assessments into realty and personalty further reduces the meaning of such comparisons. However, figures computed for the year 1932 appear to indicate that Tennessee has continued to lead the field in underassessment of personalty. In that year, the ratio of personalty assessments to realty assessments in Tennessee was 8.85 per cent; for the three states of Alabama, Mississippi and Kentucky, it was 64.11 per cent; for the nine South Atlantic states and the District of Columbia, combined, it was 46.77 per cent; and for the United States as a whole, it was 23.43 per cent.*

A comparison between Tennessee and other states involving the ratio of total assessed valuations to total real value shows less divergence than the above comparison.

ASSESSMENT VALUATION COMPARED TO REAL VALUE,
TENNESSEE AND OTHER STATES¹

Date	1870	1880	1890	1900	1912	1922
Eleven Southern States, Excluding Tennessee	76.61%	38.67%	41.57%	49.13%	33.26%	35.17%
TENNESSEE	54.94%	30.00%	43.05%	41.48%	27.45%	40.93%
United States.	47.15%	38.76%	39.01%	33.78%	31.91%	38.84%

¹Data computed from *Wealth, Public Debt and Taxation; Financial Statistics of States; Statistical Abstract of the United States*.

It may be noted in the above table that only at one of the dates given did the ratio for Tennessee exceed that for the "Eleven Southern States Excluding Tennessee."

*Computed from *Financial Statistics of States and Cities, 1932, and Statistical Abstract of the United States, 1933*.

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This was in 1922, when the results of the "Sliding Scale Assessment Plan," discussed in Chapter VIII, were in evidence.

Among the significant items included in the table on page 275 under the heading of "Miscellaneous Receipts" were the gross receipts from the State Penitentiary and the amounts received as the result of short- and long-term borrowing. These two items accounted in most years for all except a small fraction of the receipts from the category.

PRINCIPAL MISCELLANEOUS RECEIPTS, 1880-1890¹

Date	Lessees, Penitentiary, And In-prison Receipts	Bond and Loan Account
1880-1882	\$ 83,042.37	\$
1882-1884	156,318.11	.....
1884-1886	202,000.00	.....
1886-1888	202,000.00	916,002.10
1888-1890	201,420.61	539,795.00
1890-1892	97,020.68	59,000.00
1892-1894	180,011.19	600,000.00
1894-1896	291,279.55	.....
1896-1898	391,795.13	1,250,000.00
1898-1900	748,620.14	1,400,000.00

¹Figures taken from *Comptrollers' Reports*. Biennial periods ended December 19th.

TRENDS IN RECEIPTS, 1900-1922¹

Date	Property	Privileges	Fines and Fees	Miscell.	Total
1900-02	\$3,373,656	\$1,240,069	\$ 159,619	\$ 1,022,685	\$ 5,796,030
1902-04	3,002,105	1,470,154	192,678	1,490,628	6,155,565
1904-06	3,244,574	814,614	235,168	2,171,961	6,466,318
1906-08	4,565,391	880,843	301,079	1,519,026	7,266,341
1908-10	3,899,958	997,986	377,298	2,110,757	7,376,000
1910-12	4,286,040	2,422,562	484,722	1,541,741	8,735,068
1912-14	4,641,502	2,485,982	540,073	1,499,312	9,166,870
1914-16	4,569,280	2,396,399	541,576	2,742,228	10,249,484
1916-18	5,945,128	2,695,368	900,728	6,652,434	16,193,659
1918-20	Change in Fiscal Period. See Footnote.				
1920-22	10,379,983	4,458,844	1,287,140	10,988,772	27,114,740

Property Taxes	\$ 7,514,549
Privilege Taxes	2,908,662
Fines and Fees	689,093
Miscellaneous	4,613,651

Total\$15,725,956

¹Figures taken from *Comptrollers' Reports*. Since cents are omitted, the total figures are, in some instances, a few dollars more than the sum of the figures in the preceding four columns. Two-year fiscal period ending December 19th from 1900-1918. Fiscal period ending June 30th from 1900-1922. Below are given figures for the transitional period covering December 20th, 1918 to June 30th, 1920 (cents omitted):

The *ad valorem* rate was 35c from 1900 to 1916 inclusive, was raised to 50c in 1917 and to 55c in 1919. Under the Sliding Scale Assessment Plan, it was reduced to 26c in 1920, raised to 35c in 1921, and to 36c in 1922.²

Since the tax rate on property was unchanged from 1900 to 1916, the increase in property tax revenues which occurred after 1902 is explained largely by the increase in assessment values, though improved administrative procedures after 1907 also undoubtedly contributed to this result.

COMPARISON OF ASSESSMENT VALUES, 1900-1920¹

Date	Land in Acres	Town Lots	Other	Total
1900	\$171,527,025	\$120,338,355	\$ 48,493,768	\$ 340,359,148
1905	175,426,832	141,130,913	57,427,866	373,985,611
1910	210,007,356	211,397,235	78,297,889	499,702,478
1915	225,526,244	252,905,090	83,387,478	561,818,812
1920	816,637,518	654,830,708	184,312,879	1,700,781,105

¹Figures taken from *Comptrollers' Reports*.

Figures in the above table do not include assessments of the public utilities, centrally assessed, which were as follows:³

1900.....	\$ 56,630,202
1905.....	71,526,782
1910.....	91,850,925
1915.....	112,545,897
1920.....	269,326,711

Of the corporations paying taxes during this period, railroad and insurance companies contributed most, as the following table shows:

RECEIPTS FROM PRINCIPAL PUBLIC UTILITIES, AND INSURANCE COMPANIES, SELECTED DATES, 1900-1922¹

Date	Railroads	Insurance	Street Railways	Telephone	Telegraph	Total
1900-1902	\$386,654	\$ 320,777	\$	\$ 6,522	\$4,897	\$ 718,850
1910-1912	545,477	625,138	88,806	53,445	11,114	1,323,980
1920-1922	847,366	1,636,385	72,620	164,806	19,481	2,740,658

¹Data from *Comptrollers' Reports*. Biennium ended December 19th in 1902 and 1912; ended June 30th in 1922.

From a consideration of the previous tables, it may be seen that *ad valorem* taxes on real estate and personalty continued to supply nearly seventy-five per cent of the property taxes, although incorporated companies paid increasing amounts throughout this period.

²Data in this paragraph from *Comptrollers' Reports*.

³Data from *Reports of the Railroad Commission*.

Privilege Taxes, 1900-1920. Merchants' privilege taxes, liquor dealers taxes and taxes on transfers of real estate supplied the major part of the privilege taxes which were paid directly to the County Court Clerks, though the liquor taxes were eliminated during the second decade of this period. Of the privilege taxes paid directly to the Comptroller, the tax on insurance agents produced most. After 1910, telephone companies paid privilege taxes equal to, or greater in amount than their payments under the *ad valorem* tax. Sleeping-car companies, express companies, news companies, building and loan associations and other companies paid small amounts directly to the Comptroller each year as privilege taxes. For this period as a whole (1900-1920), privilege taxes produced a smaller proportion of total revenues than during the previous decades.

Fees, 1900-1920. Fees collected from domestic corporations, as well as fees collected from foreign corporations "qualifying" to do business in Tennessee, increased during this period. Corporation filing fees also produced additional amounts, and oil inspection fees showed a rapid increase.

RECEIPTS FROM SELECTED FEES, 1900-1920¹

Date	Charter Fees	Oil Inspection	Filing Fees
1900-1902	\$ 66,523.37	\$ 74,290.58	\$.....
1910-1912	148,094.68	118,564.11	146,087.55
1920-1922	209,797.98	645,455.93	258,397.13

¹Figures taken from *Comptrollers' Reports*. Biennium ends on December 19th in 1902 and 1912; ends on June 30th in 1922.

Miscellaneous. The following figures show the "miscellaneous" sources of receipts for the biennium ending June 30, 1922. It may be noted that auto registration receipts are included here rather than under "Fees and Fines."

SELECTED MISCELLANEOUS RECEIPTS,¹ 1920-1922

Penitentiary	\$1,585,287.15
Auto Registration	2,924,110.55
Borrowing	3,103,464.90
Hospital for the Insane	480,020.89
Federal Aid, Agriculture	196,511.05
Bureau of Agriculture	172,267.29
State Board of Health	108,203.86

¹Biennial period ending June 30, 1922. Figures taken from the *Comptroller's Report, 1922*.

Trends in Receipts, 1923-1946. Chapters VIII to XII considered fiscal developments in such detail since 1917 that little more than broad generalizations are called for in this section. Trends in receipts since 1923 may be summarized as follows:

Property Tax. (1). After being the mainstay of the State's revenues for a century and a quarter, the general property tax declined rapidly in importance after 1923, and was completely repealed for the year 1931. A rate of only 8c per \$100 has been levied by the State since 1932. Property taxes produced approximately fifty per cent of total revenues for the biennium of 1920-1922, prior to tax reductions; by 1932, the percentage was only 4.19; and for the fiscal year ending June 30, 1945, the *ad valorem* receipts collected by the County Trustees for the State were only 1.73 per cent of total receipts.

(2) *Selected Sales or Excise Taxes.* Broadly speaking, the property tax was replaced by the gasoline sales tax. Sales taxes on tobacco, beer, liquors and other articles also became important, but gasoline taxes produced from forty to fifty per cent of total revenues after 1931, when the rate reached 7c per gallon, and it produced approximately twenty-five per cent from 1925 to 1931, when the rates were lower.

(3) *Privilege Taxation.* In a legal sense, most of Tennessee's taxes are now imposed under the constitutional authority to tax "privileges." Except for the *ad valorem* taxes, the *in lieu* income taxes on stocks and bonds, the poll taxes and the privilege taxes, there is no authority for taxing. Hence, selected sales taxes, such as those on gasoline, tobacco, beer, liquor, gross receipts taxes, and the corporation excise (profits) tax are all imposed as "privilege taxes."

We have noticed that the property tax was virtually replaced by the gasoline tax as the backbone of the revenue system between 1923 and 1947. The selected sales "privilege taxes" in the 1920's, the gross receipts "privilege taxes" in the 1930's, and the two per cent retail sales tax of 1947 have replaced the older revenue sources almost completely.

The multifarious privilege taxes collected by the County Court Clerks continued throughout this period to harass the business community without contributing more than two or three per cent of total receipts.

Thus, while a study made by the Tennessee State Planning Commission⁴ shows total receipts collected under the legal authority of "privilege taxation" as \$53,989,598.38 for the fiscal year ending June 30th, 1946, only \$2,034,109.91 were collected by the County Court Clerks from more than one hundred and thirty "general privilege taxes" which were levied at this time.

(4) *Income Tax on Stocks and Bonds.* Full use of this tax was not made until 1929, as noted in Chapter IX.⁵ Rates were increased in 1937, when discrimination appeared in favor of dividends and interest from Tennessee corporations as compared to foreign corporations. The large exemptions allowed domestic corporations, as well as the lower rates on these dividends, has prevented this source of revenue from producing more than one or two per cent of total receipts, as the following figures show:

RECEIPTS FROM STOCK AND BOND INCOME TAX,
SELECTED DATES¹

Date	Receipts, Stock and Bond Income Tax	Total Receipts, All Sources	Percentage, Stock and Bond Tax to Total
1930	\$ 571,962.13	\$63,016,699.18	.96
1935	572,633.80	44,276,371.33	1.30
1940	1,226,050.55	72,752,465.91	1.70
1945	1,355,697.48	78,716,224.08	1.73

¹Figures taken from *Condensed Financial Statements* for 1930-1935; from *Reports of the Department of Accounts* for 1940-1945. Fiscal year ends June 30th.

(5) *Proprietary Income and Motor Vehicle Fees.* Using this term rather broadly not only to include receipts from commercial services supplied by the State, but also receipts from such State-owned property as the penitentiary, charitable and educational institutions, and toll bridges, it is found that such receipts have increased steadily. Mention has already been made of receipts from the penitentiary, both when convicts were leased to private corporations, prior to 1897, and also when goods were produced in prison shops and on State-owned farms and in State-owned mines.⁶ Bridge tolls have produced relatively small amounts, which have been ear-marked to pay for the bridges. Motor vehicle fees or "auto license taxes" have shown a secular increase for more than forty years.

⁴Tennessee State Planning Commission: *Tennessee State Government, A Hundred Million Dollar Business, a Report on State Finances, 1945-1946*, page 2.

⁵Cf. *passim*, pages 182-183.

⁶Cf. *passim*, Chapter V, pages 103-5.

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Income from State institutions showed considerable growth as these increased in both number and scope. Expenditures on institutions, however, as a whole, have always exceeded the income produced by them.

RECEIPTS FROM STATE INSTITUTIONS AND MOTOR VEHICLE FEES, SELECTED DATES, 1925-1945¹

Date	Institutional Income	Motor Vehicle Fees
1925	\$1,134,579.98	\$3,014,138.78
1930	1,912,712.46	4,172,418.23
1935	1,200,611.64	3,635,953.33
1940	1,444,717.56	4,901,787.60
1945	2,706,536.67	5,889,492.88

¹Data from *Condensed Financial Statements, 1925-1935*; from *Reports of the Department of Accounts, 1940-1945*. Fiscal year ends June 30th.

(6) *Receipts from Federal and Local Governments.* In Tennessee, as elsewhere in the Union, Federal grants and aids increased rapidly during the period between 1920 and 1945. While relatively small sums had previously been received under the Smith-Lever Act (1914), granting funds for agricultural and other uses, the real era of Federal grants began with the passage of the Federal Aid Road Act in 1916.

It is impossible to secure exact figures on the amounts of Federal aids and grants to Tennessee from State documents. Based upon Federal documents, the following table gives the total amounts received as subventions and grants from the Federal government during the past three decades.

GRANTS AND SUBVENTIONS FROM THE FEDERAL GOVERNMENT TO THE STATE OF TENNESSEE, 1915-1945¹

Year	Amount	Year	Amount	Year	Amount
1915	\$ 85,000	1926	\$2,891,344	1937	\$ 6,567,411
1916	110,695	1927	2,335,591	1938	9,538,000
1917	120,322	1928	1,849,319	1939	10,375,000
1918	143,521	1929	2,856,362	1940	11,426,000
1919	161,996	1930	2,076,068	1941	10,698,000
1920	Unavailable	1931	5,127,746	1942	13,894,000
1921	1,685,000	1932	3,049,000	1943	13,922,000
1922	2,275,685	1933	4,018,000	1944	12,180,000
1923	2,503,731	1934	7,396,000	1945	16,817,000
1924	2,222,083	1935	Unavailable		
1925	5,574,433	1936	" "		

¹Statistics taken from *Financial Statistics of States, 1915-1931* (except 1920, not issued); *Financial Statistics of State and Local Governments, 1932* (Tennessee); *State Finances, 1942-1945*; *Statistical Abstracts of the United States*.

During the 1920's, counties matched State funds for the purpose of constructing highways, and receipts from this source reached a high of \$7,099,027.08 in 1928.⁷

⁷*Comptroller's Report, 1928.*

Between the decade 1926 and 1936, non-tax revenues, exclusive of borrowing, produced 19.19 per cent of total receipts.⁸

For the fiscal year ending June 30, 1925, non-tax receipts, exclusive of borrowing, produced \$6,250,204.03, while in 1930 the amount was \$9,023,677.50 and in 1935 it was \$9,989,001.83.⁹

Following the inauguration of the Federal welfare-aid program in 1936, State receipts from Federal and local sources increased rapidly.

RECEIPTS OF THE STATE FROM FEDERAL AND LOCAL
SOURCES, 1936-1948¹

Date	Federal Aid, Highway Construction	Federal and Local Aid, Welfare Programs	Unemployment Compensation
1936	\$4,342,714.63	\$ 822,181.61	\$
1937	4,880,080.41	1,024,292.46	.....
1938	4,827,543.65	4,952,313.00	5,500,000.00
1939	3,960,514.82	6,087,594.18	5,150,000.00
1940	4,016,196.42	7,183,445.30	5,474,000.00
1941	2,587,725.88	8,917,434.72	5,330,000.00
1942	3,829,030.75	10,446,035.33	5,945,000.00
1943	2,456,347.71	11,087,310.03	3,400,000.00
1944	2,521,310.14	12,702,400.88	1,345,000.00
1945	3,517,861.59	13,929,117.91	1,420,000.00
1946	2,024,861.59	13,624,598.21	10,850,875.00
1947	9,345,142.55	19,399,619.50	10,200,000.00
1948	8,938,884.49	28,471,256.03	10,614,344.29

¹Figures taken from *Reports of the Division of Accounts*, 1937 to 1939; from *Reports of the Department of Accounts*, 1939 to 1948. Fiscal year ending June 30th.

Federal aid, then, has been received in an increasing amount during the past twenty-five years, and this was true to some extent even before the advent of the "New Deal" social and economic program. The latter, however, tremendously increased the receipts of the State from both Federal and local units of government.

By 1940, Federal aid was being used for highways, health, education, conservation, welfare, unemployment compensation, State planning, and military purposes. Receipts from the local units of government by the State were small in comparison to Federal aid. In 1940, the sum of \$1,351,502.00 was received from this source, and was used for public health, old age assistance, aid to the blind, aid to crippled children, and for the unemployment service.

⁸Condensed Financial Statement, 1936, page 24.

⁹Estimated from Condensed Financial Statement (1936).

Receipts from other units of government, both Federal and local, increased from approximately twelve per cent in 1926 (at which time the amounts were used largely for highway construction) to nearly twenty-five per cent in 1948, (at which time the amounts were used for many different purposes).

In 1946, Tennesseans paid a *per capita* tax burden of \$22.36, while in 1948, following the imposition of the sales tax, the average *per capita* was approximately \$44.00. The latter figure was near the average for all American states in 1948.

Chapter XVI

TRENDS IN DEBT

The history of the State debt of Tennessee has been characterized during the past century by very distinct cycles. Since 1852, there have been two major, prolonged periods of rising debt, and three major periods of declining debt. One other period was characterized by relative stability for two decades.

The two principal factors which have produced large increases of State debt have both been associated with capital outlays on systems of transportation. The first great increase occurred chiefly between 1850 and 1870, though previously, from 1838 to 1850, a modest debt had been incurred to aid turnpike, canal, and railroad companies, and to establish State-owned or partially State-owned banks. While some of the Southern states, including neighboring Georgia, expended public funds directly on state-owned railroads, Tennessee used the method of lending its credit to privately-owned corporations, accepting in return the stocks, bonds and contracts of these companies. Prior to 1865, the loans were, in general, soundly placed, and hence the debt was largely offset by income-producing assets.

The destruction of the Civil War and the economic chaos that followed, however, weakened or bankrupted the railroads, thus reducing the value of the State's claims against these lines, and increasing the real burden of the debt. In a word, the State was still liable to pay the interest on its debt, but the railroads on their part were unable to make payments to the State.

Added to this development, further heavy, reckless and fraudulent loans were made from 1865 to 1870, some even being made to hopelessly bankrupt lines. Millions were wasted by the borrowers in many cases without rebuilding the depleted railroad facilities. Thus, by 1872, the State was burdened with a debt which, at that time and in view of the economic conditions, was considered very large, being, in the gross, more than \$46,000,000.

The second great period of increase in State debt occurred from 1926 to 1937, and was principally due to a tremendous outlay on highways and highway bridges though the increase after 1931 was attributable to "depression deficits." This movement resulted in an increase of the

debt by more than eight hundred per cent, the amount rising from \$14,702,000 in 1924 to approximately \$130,000,000 in 1936. This second major increase had been preceded by a smaller increase which had brought the debt from a low of \$10,781,000 in 1914 to \$15,843,000 in 1922.¹ This preliminary increase of nearly \$5,000,000 resulted largely from cumulated operating deficits, as the State expended larger and larger sums on education and other purposes while still relying chiefly on the *ad valorem* tax for revenues.

The two main periods of debt decrease both began only when exhaustion of the State's credit and default or threatened default led to a cessation of capital outlays (direct and indirect) and a period of retrenchment. The first period of debt contraction was from 1872 to 1883. The second major period of reduction began in 1937 and is still under way at the time of this writing (1946), having been greatly aided by the fiscal effects of World War II. A third period of debt reduction, of smaller proportions, began in 1900, when the total was \$16,953,266.66, and continued with some breaks for fourteen years, when, as noted, the interest-bearing bonded debt was \$10,781,000. However, this reduction was to some extent more nominal than real, since considerable amounts of floating debt developed between 1910 and 1914, as will be noted.

The period from 1883, when the famous Debt Settlement Act was passed, until 1900 was one of relative stability, with bonded debt fluctuating between sixteen and eighteen millions during this time.

1. *The Railroad Debt Period, 1870-1883.* The adoption of the State's Third Constitution in 1870, following the recapture of the State government by the ex-Confederates, put an abrupt halt to further extensions of the State's credit for the use of railroad and other borrowers. The total liabilities of the State continued to increase for two years, however, due to the accumulation of unpaid interest. Between 1872 and 1883, the gross bonded debt was reduced from \$40,488,961.40 in 1872 to \$20,314,766.88 in 1882. This reduction was achieved by two methods: The first was the result of laws passed in 1869 and 1870 which permitted the borrowing railroads to repay their debts by tendering State bonds. The law of 1869 had required payment only in bonds issued to the railroad which was making repayment; but the 1870 law allowed repayment in any

¹Figures given are for interest-bearing bonded debt only. Data from *Comptrollers' Reports*.

legally-issued bonds bearing six per cent interest. Since the State's bonds of this type were selling at an average of 53c on the \$1.00 between 1872-1879 (ranging from a low of 35c in 1878 to a high of 79c in 1873), it was thus possible for the borrowers to repay at "bargain counter" rates.² A total of approximately \$14,000,000.00 of bonds was thus paid in and cancelled during this period. This reduced the State's debt accordingly, and while it did not represent a loss to the State, it did mean that original purchasers of the bonds had lost heavily.

However, only the stronger railroads could afford to buy State bonds with which to repay their debts. The weaker lines continued to default on their interest or sinking-fund payments, and in 1872 the State foreclosed and offered eleven such railroads for sale through State receivers. These eleven lines were indebted to the State in the amount of \$14,648,000.00 but their liquidation value was only \$6,698,000.00, and thus a loss of \$7,950,000.00 was taken.

By the two above methods, the bonded debt was almost halved even before the Debt Settlement Act of 1883 further reduced it. However, accumulated interest, though funded for the years 1870-1872, continued thereafter to increase at the rate of approximately \$1,000,000.00 per year, and by 1882 amounted to \$8,471,298.50, or more than forty-two per cent of the total State liabilities. Between October 1, 1870 and December 31, 1882 (the second date being just before the Debt Settlement Act was accepted) the total amount actually paid as interest on the debt was \$2,734,180.30. Thus, something less than twenty per cent of the interest was paid, and something more than eighty per cent of the interest was defaulted during this period. As stated, most of the unpaid interest was not funded prior to 1883.

Interest and sinking-fund payments received from railroads and turnpike companies during the same twelve-year period were only \$371,970.08, and nothing whatever was received after 1876, by which time the borrowers had either liquidated their debts by paying over bonds to the State, or had been sold in bankruptcy by the State's receivers.

²W. A. Scott, *Repudiation of State Debts*, page 214.

The State debt between 1870 and 1882 was as follows :

GROSS DEBT OF THE STATE OF TENNESSEE, 1870-1882¹

Date	Bonds, Including Endorsed Bonds	Accrued Unfunded Interest	Floating and Other Liabilities
1870	\$43,052,625.25	\$2,567,552.70	\$2,158,417.27
1872	40,488,961.40	4,858,675.36	915,834.72
1874	28,352,400.00	.....	283,290.49
1876	25,710,940.00	2,217,816.21	129,020.61
1878	21,529,300.00	4,201,802.50	99,720.23
1880	22,299,300.00	6,336,550.00	.....
1882	20,314,766.88	8,471,298.50	.....

¹Data computed from *Comptrollers' Reports*. Date is Oct. 1 for the years 1870-1874; date is Dec. 19 for the years 1876 to 1882.

The debt question produced bitter political quarrels during the thirteen years between 1870 and the "Settlement" of 1883. The dominant Democratic Party was divided between the "Low-tax Wing," which favored partial or complete repudiation of the "railroad" debt, and the "State Credit Wing," which favored full payment, or at least a compromise which would be acceptable to the bond-holders.

Governor James Porter, in office from 1875-1879, belonged to the "State Credit Wing," but the Legislature was under the control of the "Low Tax" members. In his *Mesage* of January 3, 1877, Porter presented a request from the bond-holders that a legislative committee be empowered to negotiate with them in order to reach a settlement which "would be honorable to the State and equitable to the creditors."³ The committee was appointed, and on December 5, 1877 reported to an Extra Session of the Legislature that the creditors would accept 60c on the dollar, payable in six per cent, thirty-year coupon bonds.

While the committee had been negotiating with the creditors, Governor Porter had resumed interest payments on the State debt, but the legislature quickly expressed its disapproval of this policy by reducing the tax rate from 40c to 10c, passing this measure over the Governor's veto.

The "Sixty-six Settlement" was decisively rejected by the Legislature, however, and a reduction of the principal amount to 50c on the dollar, proposed by the creditors, was also rejected at a Second Extra Session. Sentiment now grew stronger for complete repudiation of all of the "railroad debt." A Special Investigating Committee was created to probe into possible illegalities in connection with the original issuance of the bonds, and this Committee reported in 1879 that in the case of some \$11,221,000, "the

³*Senate Journal*, 1877, page 41.

conditions of the laws authorizing them had not been complied with; also that the greater part of the debt was the result of corrupt legislation, superinduced by corporate bodies seeking State aid."⁴ The creditors now hastened to propose a settlement on a basis of four per cent bonds, with full payment of principal—that is, a "hundred-four" basis; but this the Legislature flatly rejected. A bill then passed the Assembly calling for a "sixty-four" settlement of the "State Debt Proper"; the funding of the pre-war part of the "railroad debt" at "sixty-four," part at "fifty-four," and part at "thirty-four"; the funding of post-war railroad debt into non-interest-bearing warrants issued at the ratio of thirty-three cents on the dollar, such warrants to be receivable in taxes and dues to the State; and a small issue of bonds loaned to the Mineral Home Railroad Company was to be repudiated altogether, since the Company appeared to have existed only in the fertile imagination of a promoter.

This was the most drastic proposal that had been made, but the act provided that the settlement should be voted upon by the electorate before going into effect, and on August 7, 1879, the plan was rejected at the polls, apparently on the grounds that it was too severe.

The debt became the chief issue in the political campaigns of 1880. The "Low-Tax Wing" bolted the Democratic Convention when a majority of the delegates approved "a prompt settlement on the best terms that could be secured from the creditors."⁵ As a result of the Democratic schism, a Republican, Alvin Hawkins, was elected Governor. While "straddling" the issue during the campaign in order to take full advantage of the Democratic feud, Hawkins and the Republicans were generally more apologetic for the "post-war railroad debt," which had been created under the administration of Governor Brownlow, a member of their own party.

On April 6, 1881, the Legislature proposed to settle the debt at par by the issuance of three per cent bonds, with the bond-coupons being merely receivable for taxes and dues. The regular debt ("State debt proper") was excluded from this proposal, however, and was to be funded into full-fledged six per cent bonds. This plan was not submitted to the voters, but the proposed settlement was immediately contested in the courts, and was invalidated

⁴Scott, *op. cit.* page 144.

⁵J. W. Caldwell, *Studies in the Constitutional History of Tennessee*, page 258.

on the grounds that future Legislatures were unconstitutionally bound by the provision which required the bond-coupons to be acceptable for taxes and dues for a period of ninety-nine years.⁶

At an Extra Session of the 1881 Assembly, another plan was enacted into law which offered the creditors a settlement of 60c on the dollar, with the new bonds to bear three per cent interest for the first two years, four per cent for the next two years, five per cent for the next two years, and six per cent thereafter. The creditors, however, heartened by the political split and the somewhat improved terms of this plan, as compared to those of 1879 and 1881, rejected the offer. The Legislature thereupon adjourned without taking further action.

By this time—1882—the debt problem had assumed comic-opera aspects, the voters were thoroughly confused, and the whole subject had become tiresome to most of the people. The "Low-Tax Democrats" dominated their party's convention this year, and their platform called for a quick settlement of the "railroad debt" at 50c on the dollar, to be paid in three per cent bonds, with the "State debt proper" to be paid in full with six per cent bonds.

General W. B. Bate was elected on the Democratic platform, despite some deflection by the "State Credit Democrats," and the vexatious matter was finally settled by the Legislature in 1883 along the proposed lines. The creditors accepted the offer without litigation.

The Debt Settlement Act⁷ of 1883 involved a repudiation of up to fifty per cent of the original principal and accrued and funded interest of the "internal improvement" or "railroad debt." The issues subject to the fifty per cent reduction included ante-bellum bonds amounting to \$8,583,000, post-war bonds amounting to \$2,246,000, bonds of \$596,000 which represented interest that had been funded under the Funding Act of 1868, and \$4,867,000 of bonds which represented interest that had been funded under the Funding Act of 1873. All the new bonds issued to scale down the above "railroad debt" were to carry three per cent interest and mature in thirty years.

Parts of the "State debt proper," including capital building bonds, Hermitage bonds, agricultural bonds, Union Bank bonds, Bank of Tennessee bonds, and some early

⁶Lynn V. Polk, 3 Lea's Tennessee Reports, pages 121-328.

⁷Public Acts of 1883, Chapter 84.

turnpike and railroad bonds, were scaled down by twenty-four per cent if the old bonds had carried six per cent interest, by twenty-one per cent if the old bonds had carried five per cent interest, and by twenty per cent if the old bonds had carried four per cent interest. The bonds into which the last-mentioned group were to be funded at the ratio noted, were to carry the same interest rates as those which had been carried by the old bonds.

Bonds held by educational, literary, and charitable institutions of the state as of January 1, 1882, were exempted from the scaling-down provisions of the act, however, as also were bonds held by the widow of ex-President James K. Polk.

The Settlement reduced \$26,002,916.39 of the debt by some fifty per cent, while the amount of the "State debt proper" which was not scaled down, but was refunded into five and six per cent bonds, was \$2,783,150.00.⁸

Thus, the State's indebtedness was reduced by the amount of \$13,001,458.19 through the partial repudiation⁹ of those portions of the debt which had been incurred under conditions of illegality, fraud and bribery. The total State debt as given by the next *Comptroller's Report* following the Settlement, on December 19, 1884, was \$17,332,900.00.

(2) *The Period of Debt Stability, 1883-1900.* During this period nothing was done to reduce the debt or provide a sinking fund, and, except for one development, the debt would have remained at an almost constant amount during this time. The exception was due to the "Torbett Issue" of notes which had been put into circulation by the State-owned Bank of Tennessee during the Civil War.

Until 1883, it was believed that these notes could not be paid by the State because of the terms of the Fifteenth Amendment of the Federal Constitution, which required Confederate States to repudiate all debt incurred "in aid of the rebellion." Following the Civil War, the issue was almost constantly before the State and Federal courts, but finally it was ruled that such notes should be paid.¹⁰ The amount totalled \$1,646,299.00, and since the assets of the

⁸Message of Governor W. M. Bate, January 12, 1885, *Senate Journal*, page 91.

⁹While it is true that the scaling down of the debt was accepted by the creditors, and hence technically was not a repudiation on the part of the State, nevertheless the temper of the people was such that refusal of the creditors would almost certainly have produced a unilateral repudiation by the State. In the opinion of most historians, however, the State's action was thoroughly justified.

¹⁰Message of Governor Bates, January 6, 1887, *Senate Journal*, page 126-127.

Bank of Tennessee, when liquidated, produced only \$216,584.96, a net liability of more than \$1,300,000.00 faced the State.

Acts passed in 1883 and 1885 provided that the notes be funded into Treasury Certificates which would be retired at the rate of \$200,000.00 per year. The certificates were receivable for State taxes and dues. During 1883 and 1884 \$651,584.96 of such notes were funded into the Certificates, and under the 1885 Act, \$320,505.00 more were funded. The small remainder of the notes was paid from the proceeds of liquidation of the Bank of Tennessee.

By 1889, all the Certificates had been retired. As a result, however, the debt of the State was temporarily increased in 1885 by nearly \$1,200,000.00.

In order to resume payment of interest on the debt, following the Settlement of 1883, the Legislature had raised the tax rate from 10c to 40c, and since that time, no defaults have occurred in the payment of principal or interest on the State debt, bonded or short-term.

The amount required to pay the interest was slightly over \$600,000.00 per year after 1883, though to this amount was soon added the \$200,000.00 required to retire the Treasury Certificates noted above. Expenditures gradually increased after 1885, however, and for the decade 1890-1900, average annual expenditures were two-thirds greater than during the decade of the 1880's. As a result, the receipts failed to cover all expenditures, and the policy of short-term borrowing to pay interest and other expenses was begun in 1885 through an "over-checking" agreement with Nashville banks. In 1889, Governor Taylor reported that \$966,002.10 had been borrowed during the previous two years, with \$703,502.11 still outstanding. During the next ten years, this short-term debt fluctuated between one-half and one million dollars. The disturbances growing out of the use of convict labor in the coal mines, described in Chapter V,¹¹ produced unusual expenses for the State, and led to the construction of a new and larger penitentiary, as well as to the purchase of extensive coal fields, which the State operated after 1896. The result was to increase the bonded debt from \$16,133,630.36 in 1892, to \$17,355,666.66 in 1894. Thereafter, the debt remained virtually constant until 1900, though some minor refunding operations took place during this decade in order to reduce the interest rate on some of the five and six per cent issues.

¹¹Cf. *ante*, pages 103-5.

Following is a table of the bonded debt of the State from 1884 to 1924. The latter date marks the beginning of the "Highway Debt Period."

BONDED DEBT, STATE OF TENNESSEE, 1884-1924¹

Date	Amount
1884	\$17,322,900.00
1886	18,961,895.00
1888	16,288,345.62
1890	16,888,766.66
1892	16,133,630.36
1894	17,355,666.66
1896	17,352,066.66
1898	17,351,866.66
1900	16,953,266.66
1902	16,021,466.66
1904	15,403,966.66
1906	14,236,766.66
1908	12,461,566.66
1910	11,793,666.66
1912	11,793,666.66
1914	12,152,666.66
1916	12,752,666.66
1918	14,812,666.66
1920	14,812,666.66
1922	16,358,666.66
1924	15,438,666.66

(3) *Second Period of Debt Reduction, 1900-1914.* By the turn of the century, the finances of the State began to show decided improvement, as increased assessments produced larger *ad valorem* receipts. The question of making sinking fund payments had been mentioned without enthusiasm by previous Governors, but Governor McMillin in 1899 proposed, and the Legislature passed a measure providing substantial amounts for debt retirement.

The Sinking Fund Act of 1899, which began operation January 1, 1900, provided that ten per cent of all the receipts of the State, except amounts received from the State Penitentiary, should be used as a sinking fund to retire the bonded debt. The same act funded the floating debt of \$850,000. Since the three per cent Settlement Bonds of 1883 were all callable after 1888, it was now possible to redeem this class of bonds at will, and since such bonds were generally quoted at 95c or 96c on the dollar (because of the low interest rate), it was possible to redeem such bonds, by open-market purchases, at a cost of less than par. As a matter of fact, the "sinking fund" generally existed only until the end of each fiscal year, when

¹Data from *Comptrollers' Reports*. Includes callable Certificates of Indebtedness, and small amounts of non-interest bearing securities held in trust pending settlement of State-Federal claims. From 1884 to 1918, dates December 19th; for 1920-1924, dates are June 30th.

the amount of the fund was then used to purchase and retire bonds.

In 1901, authority was given to retire securities other than the three per cent bonds, and the Funding Board was also permitted to anticipate the amount of the sinking-fund receipts before the end of the fiscal year, and retire securities during the course of the year, thus saving on interest payments.

Between 1900 and 1914, approximately thirty-eight per cent of the debt was retired. In addition, payments were made from the sinking fund to make revenue refunds and to retire additional amounts of Bank of Tennessee Notes which the holders had failed to fund into the Certificates of Indebtedness in 1883-1885. The interest-bearing debt reached its lowest point between 1870 and 1947 in the year 1910, when it stood at \$10,781,000.00. This was approximately equal to the total receipts of the State government for the biennium ending December 19, 1914.

Increasing expenditures for education and other purposes somewhat reduced the surplus funds available for debt retirement after 1905. The Legislature of 1911 repealed the requirement that ten per cent of gross receipts be earmarked for debt retirement, and except for one small payment in 1914, the period of debt retirement came to an end. With the exception of the biennium 1922-1924, when Governor Peay's policies temporarily checked the trend, debt was to increase constantly until 1937, when the third major period of debt retirement began.

The following table summarizes the debt operations of the 1900-1914 period:

DEBT RETIREMENT, 1900-1914¹

Biennium	Amount Paid From Sinking Fund	Amount of Debt Retired
1898-1900	\$ 182,252.29	\$ 189,600.00
1900-1902	909,388.71	933,300.00
1902-1904	595,730.70	615,510.00
1904-1906	1,128,872.92	1,167,800.00
1906-1908	1,414,542.93	1,455,700.00
1908-1910	650,386.63	667,900.00
1910-1912	200,000.00	200,000.00
1912-1914	208,000.00	208,000.00
Totals	\$5,089,174.18	\$5,237,810.00

¹Data taken from *Comptrollers' Reports*. Fiscal period ends December 19th. Amounts listed under 1898-1900 include actual operations only from January 1, 1900 to December 19, 1900.

(4) *Refunding the State Debt, 1913-1915.* It will be recalled that the Debt Settlement Act of 1883 had provided for issuance of three per cent, thirty year bonds. Thus, on July 1, 1913, \$11,793,666.00 of the State debt matured and required refunding into new securities.

Of the original three per cent bonds issued in 1883, several millions, as noted in the previous section, were retired between 1900-1910. Of the amount maturing in 1913, \$6,670,000.00 had been converted from coupon to registered bonds under an Act passed in 1897, while \$4,316,000.00 still remained as coupon bonds. In addition to the three per cent bonds maturing on July 1, 1913, \$1,000,000.00 of Redemption Bonds, issued in 1893 to refund part of the "State Debt Proper" which had been excluded from the scaling-down provisions of the 1883 Settlement, and \$600,000 Penitentiary Bonds issued in 1893, matured on October 1, 1913. A total of \$13,393,666.00, therefore, required funding in 1913.

Except for the above bonds, the State's interest-bearing debt included only \$622,000.00 of six per cent Certificates of Indebtedness and \$14,000.00 of five per cent Certificates, both held by educational and charitable institutions and callable at will by the State.

Due to partisan bitterness between Republican Governor Hooper and the Democratic Legislature, largely over the subjects of "prohibition" and the control of the election machinery, adequate powers were not given the Funding Board (composed of Governor, Treasurer, Secretary of State and Comptroller at this time) to fund the maturing debt into new bonds. The requirement of the Assembly that the rate of new bond issues should not exceed four per cent could not be met, since the best bid received bore a rate of $4\frac{7}{8}$ per cent. When the Funding Board went to New York to negotiate further with investment bankers, it was found that a stringency existed in the capital markets. Consequently, acting under authority of an act with the Legislature had belatedly passed on June 21, 1913, the Board decided to fund the bonds into one-year Temporary Loan Maturing Notes, hoping to secure better rates by July 1, 1914, and a banking syndicate made this loan on a five per cent interest-rate, to the amount of \$9,222,381.00. However, the face-value of the notes was \$9,401,000.00, hence the effective interest rate was nearly seven per cent, counting interest plus discount. This provided funds to retire the three per cent bonds which matured on July 1, 1913.

In order to pay off the \$1,600,000 of bonds maturing on October 1, 1913, the Funding Board borrowed an additional \$1,608,000 for one year. Five per cent interest, plus a discount of one-half of one per cent, was paid for this loan.

In the spring of 1914, as the maturity-date of \$9,401,000 Notes approached, the Legislature authorized the Funding Board to sell forty-year, four per cent bonds for the purpose of paying off the notes on July 1st. Bids received on May 1st, however, showed no interest rate below 4.2 per cent. Thereupon, the Board again borrowed on one-year notes, this time securing the funds for four per cent, and even selling the notes for a small premium of \$19,742.10. The par value of this new issue totalled \$9,381,000. Thus, the old notes were retired by the issuance of new notes.

The outbreak of World War I late in July, 1914, caused the bond market to break sharply, and the ability of the State to fund the \$1,608,000 of short-term notes which were to mature on October 1, 1914, appeared doubtful. The State Treasurer was instructed by the Funding Board to set aside \$208,000 from regular tax receipts in order to make at least a token payment on the notes at maturity. This temporary revival of "sinking fund" payments is noted in the table showing financial operations between 1898 and 1914.¹² This left \$1,400,000 to be funded, if default was to be avoided.

Due largely to the assistance of United States Secretary of the Treasury, William G. McAdoo, the necessary amount was secured, however, by the purchase of the State's one-year notes, bearing six per cent interest, by the National Park Bank of New York. This sale produced \$1,400,000.00 and, with the \$208,000.00 diverted from revenue receipts, enabled the Board to pay off the \$1,608,000.00 of notes maturing on October 1, 1914.

As a result of the above developments, virtually the entire State debt had been temporarily converted into short-term obligations, as the following figures show:

THE STATE DEBT ON DECEMBER 19, 1914¹

Loan-refunding Notes, due July 1, 1915.....	\$9,381,000.00
Loan-refunding Notes, due October 1, 1915.....	1,400,000.00
Certificates of Indebtedness (6%).....	14,000.00
Certificates of Indebtedness (5%).....	622,000.00
Old Unfunded Bonds held by U. S. Government.....	335,666.66
Old Unfunded Bonds held in Trust at the Fourth National Bank, Nashville, pending settlement of Federal-State Civil War claims	400,000.00
Total	\$12,152,666.66

¹Figures taken from *Comptroller's Report*, 1912-1914. ¹²*Cf. ante*, page 307.

The narrowness by which the State missed default during the course of the above-mentioned negotiations leads one to suspect that Comptroller Woolen was somewhat breathless when he reported at the end of 1914 that: "The State has met all her obligations promptly, and her credit is second to no State in the Union."¹³

On April 1, 1915, the Legislature authorized the Funding Board to market State bonds not to exceed \$13,000,000.00 in amount, with an interest rate not greater than four and one-half per cent, and maturity of not more than forty years, for the purpose of funding the notes which mature on July 1st, and October 1st, 1915. The Board was also authorized to fund into these bonds an additional \$1,000,000.00 of short-term debt which had been incurred to meet operating deficits of the current biennium.

Under this authority, bonds of \$5,370,000.00 at a four per cent rate of interest, and \$6,411,000.00 at a four and one-half per cent rate, were sold to a New York banking syndicate. The issues were arranged to mature serially between 1919 and 1955.

After the receipts from the bond sales were used to retire the short-term notes in 1915, the total interest-bearing debt of the State stood at \$12,417,000.00. If the "Old Unfunded Issues" listed in the previous table are added, the total debt of the State at that time was \$13,152,666.66.

(5) *The Period of Operating Deficits, 1914-1922.* The chief factor which produced an increase of the interest-bearing debt from a low of \$10,781,000.00 in 1910 to a high of \$15,843,000.00 in 1922, was the greater expenditures on education, coupled with a continuing reliance upon an inadequate revenue system. Another factor was the loss of revenues between 1909-1913 resulting from "prohibition laws" which abolished certain liquor taxes. The factional strife from 1911 and 1915 between Governor Hooper, a Republican "dry," and a Democratic Legislature with a majority of "wets," also contributed to wasteful expenditures and a neglect of financial matters.

As it had been forty years before, an increase of unpaid bills and claims against the State, the cumulative increase of short-term debt, and a failure to make sinking-fund payments were symptoms of the unhealthy fiscal condition.

¹³Comptroller's Report, 1912-1914, page 21.

The basic fact was that the antiquated *ad valorem*-privilege tax system was beginning to crumble under the weight of an increasing burden of demands on the State.

Governor Tom C. Rye reviewed the first few years of this deficit period in his *Message* of January, 1919, and indicated that the State had first begun to spend beyond its income during the biennium 1907-1909, though the deficit had been only \$30,749.83, and had been covered without borrowing, from surplus funds.¹⁴ The next biennium had produced a gross deficit of \$815,630.50, though it may be noted from the table previously given,¹⁵ that \$650,386.63 had been disbursed from the sinking fund to retire bonded debt, thus leaving a net deficit of only \$165,233.87.

Between 1910 and 1914, the gross deficit was slightly over \$1,000,000.00, and it will be recalled from the previous section that only \$208,000.00 had been disbursed for debt retirement during that period. Short-term debt of \$1,000,000.00 was funded into bonds in 1915, as we have noted, but this was not the end of floating debt. Between 1916 and 1922, an average of nearly \$1,500,000.00 was continually outstanding as the State borrowed on short-term notes, repaid then renewed and reborrowed. For the fiscal period ending December 19, 1918, gross receipts from such sources were \$3,381,124.86, and for the period from December 19, 1918, to June 30, 1920 (a transition to a new fiscal period), \$1,000,250.00 more was borrowed.

The following table indicates the pattern of floating debt between 1916 and 1924:

GROSS AND NET SHORT-TERM BORROWING, 1916-1924¹

Date	Gross Borrowing, Short-term Notes	Repayments	Net Borrowing
1916-1918	\$3,381,124.86	\$2,300,000.00	\$+1,181,124.86
1918-1920 ²	1,000,250.00	2,150,000.00	—1,149,750.00
1920-1922 ³	3,103,464.90	1,489,000.00	+1,614,464.90
1922-1924	1,920,183.07	2,967,000.00	—1,046,000.00

¹Data taken or computed from Governor Rye's *Message* of January 7, 1919, and *Comptrollers' Reports*, 1916-1924.

²Covers transition to new fiscal period, December 19, 1918, to June 30, 1920.

³After 1920, fiscal periods are July 1 to June 30.

Thus, at the threshold of a period in which enormous borrowing would be used to finance heavy capital outlays on highways and other purposes, the State was facing recurring deficits. In addition, bonded debt increased by

¹⁴*Message* of January 7, 1919, reprinted in C. O. Brannen, *Taxation in Tennessee*, pages 198-233.

¹⁵*Cf. ante*, page 307.

more than two and one-half million dollars during this period of deficits, as expenditures were made on new office buildings and institutional facilities. In the face of these difficulties, prior to 1922, the Legislatures nevertheless steadfastly refused to face the economic realities, and proposals for higher taxes, tax amendments to Constitution, and administrative re-organization, were largely rejected during the administrations of Governors Rye, Roberts and Taylor (1915-1923).

Viewed in this light, Governor Austin Peay's promises during the political campaign of 1922 that, if elected, he would reduce property taxes by \$1,000,000.00 per year, increase educational expenditures, construct a State highway network and balance the budget,—all without further borrowing—seemed incapable of realization. The fact that these measures were largely accomplished, or well begun, during Peay's first term (1923-1925), was a tribute to a vigorous and efficient leadership. It implied, obviously, drastic changes in the system of tax administration and revenues, and culminated in what has been described in Chapter XIII as the "Revenue Revolution." That more was not accomplished after 1925 was due largely to circumstances beyond Governor Peay's control.

(6) *The Highway Debt Period, 1925-1931.* Governor Peay's "pay-as-you-go" program proved inadequate to finance the rapid expansion of the highway network, and, beginning in 1925, it was abandoned in favor of a system of borrowing as little as possible while ear-marking specific revenues for retirement of the highway debt in the shortest time possible.

Between 1927 and 1930, inclusive, \$47,200,000 of debt was incurred for the construction of highways, and during the same period \$13,850,000 was borrowed to build highway bridges.

Although usually termed the "highway debt period," heavy borrowing was also undertaken to provide funds for capital outlays on institutional buildings and facilities, including the University of Tennessee, State Hospitals for the Insane, for rural school buildings and repairs, and for State parks. These required \$27,454,000.00 of additional borrowing between 1925 and 1931.

The above figures are gross amounts of borrowing between 1925 and 1931. During the same period, however,

some debt retirement occurred each year, and for the entire six years, a total of \$5,553,000.00 of notes and bonds were paid and cancelled.

The State debt rose from \$15,364,000.00 in 1926 to \$25,481,000.00 in 1928, and \$81,279,000.00 in 1930.¹⁶ In addition, as Dr. Charles P. White correctly stated in 1930, the "County Highway Reimbursement Debt" of approximately \$30,000,000.00 had in point of fact been assumed by the State in 1929.¹⁷ The true debt figure thereby became more than \$111,000,000.00 by June 30, 1930. Thus, in less than five years the debt increased by more than seven hundred per cent. By 1929, the *per capita* debt, which was nearly \$32.00, had changed from one of the lowest in the nation to one of the highest.

The five-year "Highway Notes," issued to the amount of \$47,200,000.00, were gradually converted into long-term bonds, this being completed by the Debt Reorganization Act of 1937. Bridge bonds, to be paid from tolls, were funded into fourteen-year bonds. Thus, the original plans both for "pay-as-you-go" and "short-term highway debt" were completely abandoned by 1930.

Between 1930 and 1932, nothing more was borrowed for the construction of roads and bridges, though some additional bonds were floated to finance institutional construction programs, and the State debt (exclusive of County Reimbursement Bonds) rose by nearly \$8,000,000 more, to \$89,072,000.00 on June 30, 1932.

(7) *The Depression Debt Period, 1931-1937.* The "highway debt period" came to an abrupt halt in 1931, for reasons noted in detail in Chapter IX.¹⁸ Borrowing thereafter, for several years, was largely for the purpose of financing operating deficits and not for capital outlays. \$5,000,000 was borrowed during the biennium 1930-1932, with one cent of the gasoline tax being ear-marked for retirement of this debt. Beginning in 1930, short-term borrowing was resumed to pay current expenses, including interest on bonds. Between 1931 and 1933, \$9,000,000 of the "Short-term Highway Notes" matured and were funded into six per cent bonds.

Between 1930 and 1936, a total of \$21,950,000 of bonds were issued to finance the operating deficits which, despite

¹⁶Figures given are for June 30th. Data taken from *Comptrollers' Reports and Condensed Financial Statement, 1932.*

¹⁷"The Finances of Tennessee," page 42.

¹⁸*Cf. ante*, pages 186-192.

the drastic economy measures taken under Governor McAlister in 1933, continued to face the State. The chief reasons for this continuance were (1) the decreased receipts resulting from the economic depression, (2) increased relief burdens, (3) loss of much of the *ad valorem* tax revenues after 1930, and (4) the inability of the State to impose a general income tax or otherwise improve the revenue system because of constitutional limitations.¹⁹

As recovery from the economic depression brought increased revenues, and the "easy money policies" of the New Deal Administration brought lower interest rates, the State began to refund its notes and bonds to reduce interest charges. The General Assembly in 1935 authorized refunding of \$67,773,000 of unmatured but callable notes and bonds, and during the same year, \$7,708,000 twelve-year bonds bearing interest of 3.9 per cent were exchanged for Highway Notes which had carried rates of 4.50 to 4.75 per cent. In 1936, \$3,400,000 three and one-half per cent bonds were exchanged for more Highway Notes. One cent more of the gasoline tax was allocated to debt retirement on January 1, 1935, and by this time, only 9/10 of 1c of the 7c gasoline tax was left to the Highway Department for current use. The rest of this tax was ear-marked for county roads, interest on Highway and General bonds, and State and county debt retirement. In addition, part of the tobacco tax revenues was assigned to debt retirement, and tolls on twenty-one State bridges were allocated to debt-service of the Bridge Bonds. In addition, \$15,545,000 General Fund Bonds were being serviced from General Fund revenues.

(7) *Debt Reorganization Act of 1937*. Much was done between 1933 and 1937 to return the State to a saner financial condition. The Tennessee Taxpayers Association, supported chiefly by Chambers of Commerce and banking interests, acted in a semi-official advisory capacity to Governor McAlister, beginning in 1933, and produced numerous valuable fiscal studies, reports and recommendations. Economists such as Dr. T. R. Snaveley of the University of Virginia and Dr. C. P. White of the University of Tennessee made analyses and surveys. Nationally known firms specializing in governmental accounting were employed to investigate fiscal organization and administration.

Among the results of these studies and recommendations were the administrative reorganization noted in Chapter

¹⁹Cf. *ante*, Chapter IX.

XI,²⁰ and the comprehensive debt reorganization plan of 1937.

The Debt Reorganization Act of 1937²¹ reduced the heterogeneous debt and debt-retirement provisions to a single integrated plan which contemplated orderly and complete retirement of the entire amount. Authorization was given to issue consolidated bonds for funding and re-funding purposes in order to provide maturity dates which could be met from sinking-fund assets.

The Act of 1937 pledged for payment of debt interest and principal (according to the needs of the retirement plan) any and all of the following revenue sources, if required: (1) Five cents of the State's seven-cent gasoline tax; (2) gasoline and oil inspection fees; (3) one-half of the automobile registration fees; (4) the entire receipts from the corporation franchise tax; (5) net revenues from the toll bridges; (6) the first \$307,500 from tobacco tax receipts (until 1947).

The Act gave wide authority to the Funding Board to issue certificates and bonds in amounts equal to the outstanding debt, including the County Reimbursement Debt, which by now the State had in fact completely assumed. The law provided for a Board of Liquidation of State Debt, composed of the Governor, Treasurer, Secretary of State, Commissioner of Finance and Taxation, and the Commissioner of Administration. To this Board were transferred all existing sinking-fund assets until such time as Sinking-Fund Certificates were issued to them, whereupon the sinking-fund assets should then be transferred back to the Funding Board, to be used in payment of obligations as they matured. These Certificates were issued in an amount equal to twenty-nine categories of bonds and notes, including the highway and bridge bonds, deficit bonds, and others.

Similar Certificates were issued to guarantee payment of the older debt of the State, including the bonds issued in 1915. Consolidated State Bonds were to be issued as rapidly as possible to pay off the County Reimbursement Bonds which the State had assumed, and similar bonds were issued to fund the last part of the "deficit floating debt" of \$3,303,987.50.

²⁰Cf. *ante*, pages 205-208.

²¹*Public Acts of 1937*, Chapter 165.

Governor Browning stated in 1939 that the gross debt at the time the 1937 law went into effect was \$132,319-522.06, and that the debt plan provided for retirement of \$120,000,000, or approximately eighty-five per cent, by 1956.²² It was further estimated that nearly \$60,000,000 in interest costs would be saved over the entire life of the debt. The General Fund was completely relieved of debt service charges, and it was expected that after 1946, increasing amounts from the gasoline tax would be released from debt service, and then the tax might be reduced, or diverted to highway or other uses.

In summary, then, the Debt Retirement Act provided (a) for the consolidation of as much of the existing debt as could be called and funded, and subsequent funding or retirement from sinking-fund assets of old and consolidated bonds as they became callable or matured, and (b) definite allocation of important revenue sources exclusively for debt-retirement.

(8) *The Course of Debt Retirement, 1937-1948.* With more than adequate revenues pledged to debt retirement, and with a new budgetary plan inaugurated in 1937 which prevented General Fund expenditures from exceeding General Fund receipts (through impoundment by the Governor, if necessary), the credit of the State achieved the highest rating in its history. Following the economic recession of 1937-1938, recovery continued until it merged into the boom conditions of World War II. Relief expenditures shrank, the revenues increased, and capital outlays on roads and buildings were necessarily curtailed after the outbreak of the war.

Governor Browning, under whose administration the Debt Retirement Act had been inaugurated, served only two years, but the plan of the Act was continued during the three terms of Governor Cooper (1939-1945), and during the first term of Governor McCord (1945-1947).

Between July 1, 1937, when the debt retirement plan went into effect, and June 30, 1948, the total debt was reduced by \$54,382,525.07, or more than forty per cent. On the latter date, the gross debt was \$77,935,996.99, while the net debt (gross debt less sinking-fund assets) was \$70,525,-882.08. After 1946, however, the decline slowed down, and from July 1, 1947, to June 1, 1948, the debt increased, rising from \$72,849,513.96 to \$77,935,996.99.

²²Message of January 5, 1939, *Senate Journal*, page 29.

TABLE I.

TOTAL BONDED DEBT, STATE OF TENNESSEE, 1926-1948.¹

Date	State Debt	Assumed County Debt	Total Gross Debt
1926-----	\$ 15,364,000.00	-----	\$ 15,364,000.00
1928-----	25,481,000.00	-----	25,481,000.00
1930-----	81,279,000.00	\$30,313,304.60	111,592,304.60
1932-----	89,071,400.00	33,551,659.00	122,623,059.00
1934-----	94,804,000.00	33,504,973.00	128,308,973.00
1936-----	97,400,000.00	32,420,301.34	129,420,301.34
1938-----	106,646,499.03	25,568,824.27	132,215,324.00
1940-----	91,427,500.00	19,683,432.02	111,110,932.02
1942-----	94,394,000.00	13,770,104.75	108,164,104.75
1944-----	79,471,499.00	9,284,894.06	88,756,393.06
1946-----	75,650,718.18	3,395,404.31	79,046,122.49
1948-----	73,915,500.00	4,020,496.99	77,935,996.99

¹Figures are taken or computed from the *Comptrollers' Reports*. Dates are as of June 30th.

TABLE II.

GROSS AND NET BONDED DEBT, STATE OF TENNESSEE,
1938-1948.¹

Date	Total Gross Debt	Sinking Fund Assets	Net Debt
1938-----	\$132,215,324.00	\$16,109,640.27	\$116,105,683.73
1940-----	111,110,932.02	1,774,878.93	109,336,053.09
1942-----	108,164,104.75	12,033,175.55	96,130,929.20
1944-----	88,756,393.06	9,771,075.00	78,985,319.06
1946-----	79,046,122.49	3,395,404.31	75,650,718.18
1948-----	77,935,996.99	7,410,114.91	70,525,882.08

¹Figures are taken or computed from the *Comptrollers' Reports*. Dates are as of June 30th.

TABLE III.

ESTIMATED FUTURE STATE DEBT AND INTEREST
REQUIREMENTS.¹

Date	Estimated State Debt	Estimated Interest
1950-----	\$48,776,394.00	\$1,719,386.00
1955-----	20,008,500.00	891,770.00
1960-----	1,724,500.00	89,202.00
1965-----	60,000.00	3,150.00

¹Data taken from report of the Director of the Budget, *The Tennessee State Debt and Retirement Plan*, pages 6 and 27.

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STATE OF TENNESSEE, TABLE OF RECEIPTS AND
DISBURSEMENTS, 1870-1948.

Date	Receipts	Disbursements
1870 ¹ -----	\$ 1,924,428.07	\$ 1,335,030.22
1871 -----	1,666,498.88	1,807,251.79
1872 -----	2,126,782.92	2,107,686.80
1873 -----	1,817,699.51	1,465,136.81
1874 -----	1,774,857.78	1,763,864.04
1875 -----	2,572,057.92	2,882,172.49
1876 ² -----	425,172.56	1,420,759.49
1877 ³ -----	1,323,312.01	923,187.05
1878 -----	677,571.63	1,661,869.70
1879 -----	484,142.00	752,806.92
1880 -----	660,252.82	647,969.46
1881 -----	1,087,147.18	680,231.87
1882 -----	783,076.84	903,401.46
1883 -----	910,743.00	837,108.79
1884 -----	1,284,143.98	927,963.59
1885 -----	1,335,869.20	1,765,996.05
1886 -----	1,245,684.33	1,525,304.93
1887 -----	1,643,547.48	1,554,146.83
1888 -----	2,051,448.89	1,854,614.86
1889 -----	1,615,204.62	1,845,137.31
1890 -----	2,120,093.38	2,032,096.89
1891 -----	2,170,503.17	2,178,626.71
1892 -----	1,816,268.33	1,856,677.88
1893 -----	1,686,836.06	1,682,974.83
1894 -----	2,558,197.56	1,840,073.92
1895 -----	1,640,946.08	1,818,606.88
1896 -----	1,651,603.19	1,955,908.49
1897 -----	1,748,748.70	1,992,006.34
1898 -----	2,668,053.79	2,610,976.28
1899 -----	3,597,223.25	3,423,651.01
1900 -----	2,523,008.19	2,662,646.86
1901 -----	2,540,516.96	2,427,905.49
1902 -----	2,755,513.70	2,555,570.55
1903 -----	2,862,491.77	2,423,294.63
1904 -----	2,870,516.32	2,602,342.53
1905 -----	3,107,158.54	3,114,518.72
1906 -----	3,359,160.17	3,317,978.28
1907 -----	3,617,169.49	4,161,450.88
1908 -----	3,649,172.28	3,135,740.72
1909 -----	3,539,666.20	4,441,908.83
1910 -----	3,703,433.66	3,616,821.54
1911 -----	4,068,530.36	4,144,365.84
1912 -----	4,666,537.83	4,122,852.15
1913 -----	4,502,891.65	4,533,308.60
1914 -----	4,663,978.98	5,246,271.37
1915 -----	5,309,929.25	5,312,147.60
1916 -----	4,939,555.66	5,041,583.22
1917 -----	8,239,008.97	7,938,355.38

¹Fiscal year ended October 1st from 1870-1875 inclusive.²Transition period to new fiscal year. Includes October 1, 1875-December 19, 1876.

FINANCIAL HISTORY OF THE STATE OF TENNESSEE 237

STATE OF TENNESSEE, TABLE OF RECEIPTS AND
DISBURSEMENTS, 1870-1948.

(Continued)

Date	Receipts	Disbursements
1918 -----	7,954,650.24	7,481,785.99
1919 ^a -----	6,144,501.03	4,476,102.96
1920 ^a -----	9,581,455.30	9,147,891.08
1921 -----	11,308,248.41	11,471,792.60
1922 -----	15,806,492.22	13,709,657.48
1923 -----	17,076,781.68	15,357,307.18
1924 -----	17,554,440.60	15,616,757.24
1925 -----	20,705,266.37	22,058,934.08
1926 -----	24,992,778.96	24,769,818.77
1927 -----	27,191,448.24	27,185,582.12
1928 -----	39,644,158.35	36,126,450.82
1929 -----	65,394,031.15	49,424,979.38
1930 -----	63,016,699.18	64,865,802.99
1931 -----	39,939,922.95	56,735,765.24
1932 -----	57,567,387.72	58,196,236.73
1933 -----	31,956,644.41	32,761,718.25
1934 -----	48,092,632.32	39,025,210.22
1935 -----	44,276,371.33	44,615,330.40
1936 -----	51,072,463.44	45,968,002.04
1937 -----	48,287,656.58	44,926,157.82
1938 -----	71,908,272.13	64,001,310.18
1939 -----	63,924,910.79	73,628,294.75
1940 -----	72,752,465.91	70,954,907.04
1941 -----	71,499,050.95	65,456,430.69
1942 -----	81,482,718.67	73,049,651.39
1943 -----	74,066,225.99	62,910,359.81
1944 -----	76,306,647.60	78,732,690.29
1945 -----	78,716,224.08	73,538,819.85
1946 -----	110,670,271.68	96,015,596.48
1947 -----	127,659,835.09	125,365,743.64
1948 -----	200,127,015.39	190,706,564.87

^aFiscal year ends December 19th from 1877-1918.^aTransition period to new fiscal year. Includes December 20, 1918-June 30, 1919.^aFiscal year ends June 30th from 1920-1948. Figures for receipts and disbursements from 1937-1948 include amounts received and expended under the Unemployment Compensation System.

ASSESSMENTS, STATE OF TENNESSEE, 1870-1916.

Date	Land in Acres	Town Lots	Other Property	Public Utilities	Total
1870	----- \$215,386,777.00	\$ 72,518,243.00	-----	-----	\$287,905,020.00
1872	----- 185,182,374.00	61,440,008.00	-----	-----	272,670,347.00
1874 ¹	----- 172,748,956.00	43,024,281.00	\$26,047,965.00	-----	289,533,465.00
1876	----- 182,183,996.00	57,186,439.00	35,393,394.00	-----	268,002,485.00
1878	----- 153,678,885.00	48,661,930.00	20,871,338.00	-----	236,969,258.85
1880	----- 148,999,550.00	46,635,550.00	28,671,338.00	\$ 13,757,105.85	228,293,764.69
1882	----- 146,657,833.00	48,725,735.00	16,133,338.00	16,525,326.69	249,100,722.99
1884	----- 145,882,841.00	54,350,059.00	26,546,245.00	27,170,909.99	261,444,446.12
1886	----- 140,994,711.00	59,123,554.00	26,631,284.00	34,600,262.12	256,708,856.96
1888	----- 165,479,717.00	88,646,633.00	24,790,914.00	31,799,677.96	329,752,297.70
1890	----- 172,340,180.00	120,530,633.00	43,078,704.00	32,547,243.70	382,758,189.24
1892	----- 182,041,338.00	120,521,975.00	54,637,292.00	35,250,084.24	391,486,893.87
1894	----- 164,965,930.00	115,522,399.00	50,153,219.00	38,770,361.87	361,013,694.10
1896	----- 165,762,960.00	113,497,140.00	39,333,868.00	41,191,497.10	355,201,900.18
1898	----- 159,421,612.00	110,995,934.00	34,212,533.00	41,729,267.18	375,213,440.86
1900	----- 171,527,025.00	120,338,355.00	35,698,751.00	69,097,143.86	396,989,350.16
1902	----- 173,207,406.00	124,757,254.00	48,493,768.00	56,630,202.16	406,216,242.73
1904	----- 175,742,457.00	137,432,921.00	49,923,053.00	58,328,529.73	429,385,340.38
1906	----- 182,866,869.00	161,653,077.00	55,417,428.00	60,792,534.38	472,947,966.11
1908	----- 190,288,847.00	185,175,781.00	58,378,271.00	70,049,749.11 ²	530,846,351.99
1910	----- 210,007,356.00	211,397,235.00	68,722,101.00	86,659,622.99	591,553,403.37
1912	----- 217,165,104.00	230,387,312.00	78,297,887.00	91,850,925.37	625,686,792.67
1914	----- 224,154,622.00	250,005,647.00	78,458,470.00	99,675,906.67	672,754,691.29
1916	----- 225,359,255.00	258,207,355.00	86,837,352.00	111,757,070.29	680,930,986.84
			82,066,334.00	115,298,042.84	

¹Does not include \$38,366,834.00 taxable values not reported.²Includes total telegraph, but does not include total telephone. Total telephone given only by counties in 1906.

ASSESSMENTS, STATE OF TENNESSEE, 1918-1948.*

Date	Land in Acres	Town Lots	Other Property	Public Utilities	Total
1918	-----	\$239,816,503.00	\$ 96,516,183.00	\$122,283,135.00	\$ 604,086,146.00
1920	-----	861,637,518.00	184,312,879.00	272,859,649.00	1,700,781,105.00
1922	-----	707,740,014.00	166,914,632.00	264,893,638.00	1,465,065,380.00
1924	-----	628,467,370.00	162,550,294.00	255,576,487.00	1,405,901,917.00
1926	-----	604,711,845.00	167,884,253.00	272,124,248.00	1,450,310,813.00
1928	-----	570,965,997.00	167,785,136.00	284,441,185.00	1,460,984,053.00
1930	-----	562,116,328.00	159,864,598.00	296,262,250.00	1,481,227,155.00
1932	-----	532,511,894.00	149,116,723.00	264,979,362.00	1,398,912,892.00
1934	-----	460,262,645.00	113,842,844.00	252,388,949.00	1,228,041,532.00
1936	-----	Unavailable	95,042,621.00	Unavailable	1,452,730,000.00
1938	-----	430,806,720.00	Unavailable	266,391,648.00	1,489,964,478.00
1940	-----	430,117,971.00	96,947,165.00	181,378,904.00	1,431,801,546.00
1942	-----	445,806,449.00	105,881,707.00	198,132,781.00	1,513,051,518.00
1944	-----	443,258,369.00	125,517,138.00	238,654,362.00	1,576,703,892.00
1946	-----	445,085,002.00	143,901,310.00	318,658,273.00	1,715,259,188.00
1948	-----	474,076,801.00	164,635,868.00	349,508,442.00	1,910,125,003.00
	-----	894,293,061.00	192,246,699.00		

*Figures from 1870-1924 taken from *Comptrollers' Reports*. Figures from 1924-1948 secured from Department of Finance and Taxation, *Ad Valorem* Division, courtesy of W. R. Puryear.

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